1892

SUPREME COURT OF THE UNITED STATES.

No. 160.

THE WHITE WATER VALLEY CANAL COMPANY, PLAINTIFF IN ERROR,

vs.

HENRY VALLETTE.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF INDIANA.

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Pleas of the Circuit Court of the United States for the Seventh Judicial Circuit and District of Indiana, begun, continued, and holden at Indianapolis, in said District of Indiana, on the (18th) eighteenth day of May, in the year of our Lord eighteen hundred and fifty-seven, that being the first (1st) judical day of said May term, for the year 1857. Present the Honorable John McLean, Judge of said Seventh Circuit, and the Honorable Elisha M. Huntington, Judge of said District.

HENRY VALLETTE
vs.
THE WHITE WATER VALLEY CANAL COMPANY.

In Chancery.

Be it remembered that heretofore, to wit, on the (2d) second day of February, in the year of our Lord eighteen hundred and fifty-five, the complainant, by S. Judah, Esquire, his solicitor, filed in the office of the Clerk of said Court, his certain bill of complaint against said defendant, which bill is in the following words and figures, to wit:—

To the Hon. the Judges of the Circuit Court of the United States for the District of Indiana:—

Your orator, Henry Vallette, a citizen of the State of Ohio, complains of the White Water Valley Canal Company, a corporation created by a law of the State of Indiana, and having its principal office and transacting its business in the State of Indiana, and a citizen thereof, and states:

That by the 18th section of the Act of Incorporation of the said Company, to wit, an act of the General Assembly of the State of Indiana, entitled an act to incorporate the White Water Valley Canal Company, approved January the 20th, 1842, it was provided, that the President and Directors of said Company, or any agent of them thereto, by them lawfully authorized, should have fully power to negotiate any loan or loans which might by said company be deemed expedient for carrying out any or all of the objects contemplated by the said act; and for the payment of such loans, agreeably to the terms agreed upon, such company should bind themselves by their bonds, which bonds when signed by the President and attested by the Secretary of said Company, and by the Company duly ordered to be issued, should be a solid lien upon all the stock and effects of said Company in the order of their issue; and all the effects of said Company, both real and personal, should be deemed and taken as pledged for the punctual payment of the interest on said bonds, and the ultimate redemption of the principal agreeably to contract.

And that the said Company, about the 1st day of February, 1845,

created a loan for the use and benefit of the said Company, amounting to the sum of one hundred and twenty-five thousand dollars, and on account of such loan issued bonds to the amount of one hundred and sixteen thousand dollars, each of which bonds so issued was for the sum of one thousand dollars. One hundred and twelve of them were dated the 1st day of February, 1845, and four of them were dated the 9th day of July, 1845, and all were issued and delivered to your orator, as on sale thereof, for value received as is hereafter mentioned, were payable to him or bearer; but of which last mentioned bonds three have been paid, and one either has been paid or is now held by some person or persons to your orator unknown.

And that by the terms of said bonds the said Company acknowledged that there was due on each of them from said Company to your orator or bearer the sum of one thousand dollars, bearing interest at the rate of seven per cent. per year, payable semi-annually from the date thereof, on the first days of February and August, at the office of Messrs. John Ward & Co., in the City of New York, on the delivery of the coupons or dividend warrants attached to said bonds until the payment of the principal sum; which principal sum being part of the first and only loan of one hundred and twenty-five thousand dollars created by the company under their charter for the completion of their canal, is payable in ten years from the date of the said bonds; and for the punctual payment of the said interest and the ultimate redemption of the principal according to the said contract, the faith of the company and their effects, both real and personal, were by the said terms of said bonds necessarily pledged.

And that by the terms of said bond it was also further provided, that in pursuance of the specifications of the charter the said bonds should have a preference over all debts that might thereafter be created by said company.

And that by said terms of said loans it was further provided, that in case of failure to pay interest according to said bonds, the holder of each of said bonds might, by application for a receiver to the proper Court, enter into the immediate receipt of the tolls, water rents, and other income of the said company. All of which will appear by reference to said bonds; a copy of one of which, the other being of the same character, is hereto attached and made part of this bill.

And that the complainant is now the owner and holder of eighty-six of said bonds, all of the date of the 1st day of February, 1845, together for the sums of eighty-six thousand dollars, all of which is due and payable on the 1st day of February 1855, and that for interest there is due the sum of $6,020, being $3,010, due on the 1st day of August, 1854, and $3,010, due on the 1st day of February, 1855, and on which, the same being payable in the City of New York, the complainant is entitled for exchange to about the further sum of $75 00, and also that by the tenor of each of said bonds it is further provided that in the case of the collection of the said interest by course of law, the said company shall pay the holders of

said bonds ten per cent. on the amount of said interest as and for liquidated damages, which amounts to the further sum of $602, and that by an act of the General Assembly of the State of Indiana, entitled "An act to legalize certain proceedings therein named and approved January the 4, 1845 the said bonds were made valid in law.

And that the said company has refused, and yet refuses to pay said principal, interest and exchange, all of which is now due and owing to the complainant.

And that the remainder of said bonds, being twenty-six in number, were lately held, as the complainant is informed and believes, in parcels to him unknown, by John Howland, Thomas M. Hooker, Philip Dater, and Woodward Haven, all of the City of New York, and he prays that the said persons, or the persons to whom said bonds or any of them may have been transferred, and also the owner of the one bond not yet paid, dated the 9th of July, 1845, may be permitted to come in as complainants on due contribution towards the expenses and be made parties to this suit.

Your orator further states, that he is informed and believes that the said company is wholly destitute of real or personal estate, other than the said canal, its tolls, water rents, and franchises; and that the said franchises are essential to the enjoyment of the said canal by any purchaser thereof: and that the said company is entirely insolvent: that the said canal from its nature requires constant repair, and that many of the locks and other structures of said canal are now in bad condition, requiring a speedy outlay of a large sum of money to prevent the destruction of the canal; that the complainant does not know the precise amount of the stock of said company, but believes that it is from $350,000 to $450,000 in shares of fifty dollars each, all paid up, that there is now due and owing by the said company, debts by bonds and otherwise all subsequent and subject to the loan above set forth, amounting to more than $250,000, that the gross income of said company for the year ending 1st January, 1855, was about $25,000, and for the current year will not probably exceed $30,000, and the ordinary expenses of keeping up the canal and superintendencies should be from $15,000 to $20,000 per year. And that consequently the capital stock of said company is now notoriously worthless and cannot be sold at any price: and that in the case of any extraordinary accident by floods or otherwie, the said company is wholly destitute of the funds or credit necessary to prevent the total destruction of the canal; which said accidents have occurred, and may occur again, in which event your orator would be without remedy.

To the end therefore, that the defendant may according to the best of its knowledge, information and belief, full, true, and perfect answer make to such of the several interrogatories hereinafter mentioned and set forth, as by the note hereinunder written, they are required to answer, that is to say:—

1st. Whether said company did not issue said bonds in manner and form, and for the amounts, and with the pledges and agreements contained.

2d. Whether said copy attached to this bill is not a true copy of each of these bonds; and if not, in what does it differ from any of said bonds.

3d. Whether said company is not wholly destitute of property other than said canal, and if not, in what does it consist.

4th. Whether said company is not wholly insolvent.

5th. Whether said canal does not require constant repair, and what is its present condition.

6th. What is the amount of the capital stock of said company, and what is its present value per share?

7th. Is the company indebted other than on the said bonds, and if so, to what amount, and when were those debts created?

8th. What was the gross income of said company for the year 1854, and what will be the probable income for the year 1855.

9th. What were the expenses for the year 1854, and what will be the probable expenses for the year 1855?

10th. Who are the present president, directors, secretary and treasurer of said company, and when were they elected or appointed?

And that the tolls, water rents and other incomes of the said defendant may be applied to the payment of the said interest and principal during the pendency of this suit, by a receiver thereof to be appointed by this Court with the aid of an injunction, if necessary, for that purpose.

And that the said canal, with all its appurtenances, water rights and water rents, and the said capital stock and franchises of the said company may be sold to satisfy to your orator and to such other persons entitled as may come in and be made parties to this suit, the money due them on the said bonds.

And that your orator may have such other relief as may be just and equitable, may it please your Honors to grant the writ of subpœna, &c.

SAM'L JUDAH,
Comp't's Sol. and Coun.

Note.—The def't is required to answer under its corporate seal the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and propounded in the above bill.

SAM'L JUDAH,
for Comp't.

STATE OF INDIANA,
Marion County, ss.

Henry Vallette, complainant in the above bill, being duly sworn, says, that the facts stated therein, so far as the same are stated from

information, he believes to be true, and so far as stated from his own knowledge are true.

HENRY VALLETTE,

Sworn and subscribed before the undersigned, February 2, 1855.

WM. SULLIVAN,
J. P. [SEAL.]

And thereupon the writ of subpœna was issued against said defendants, returnable to the next March rules of said court.

And afterwards, to wit, at the March rules of said court for 1855,

Comes now said defendant by her solicitor, James A. Fay, and enters her appearance in the above case. The respondents are ruled to answer the complainant's bill of complaint, on or before the next rule day of this court. And afterwards, to wit, at the April rules of said court, the complainant comes and on motion of defendant, by Smith & Fay, their counsel, the rule in this case is extended until the May rules.

And afterwards, to wit, at the May rules of said court,

The respondent, by counsel, comes and files his demurrer, in these words, to wit:—

This defendant by protestion not confessing or acknowledging anything in said complainant's bill to be true, in such manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer sheweth that the said complainant hath not in and by his said bill made or stated such a case as doth or ought to entitle him to any such discovery or relief as is thereby sought and prayed for, from or against this defendant. Wherefore this defendant demands the judgment of this honorable court, whether it shall be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and prays to be hence dismissed with its reasonable costs in the behalf sustained.

O. H SMITH & JAMES A. FAY,
Solt's for Defendants.

We, Oliver H. Smith and James A. Fay, counsel for the above defendants, certify that, in our opinion, the above demurrer is well founded in point of law.

O. H. SMITH & JAMES A. FAY,
Counsel for Defendant.

STATE OF INDIANA,
Fayette County, ss.

Abraham Conwell, president of the White Water Valley Canal Company, the above defendant, upon his oath says, that the above demurrer is not interposed for delay.

A. B. CONWELL,
Prest.

Sworn and subscribed to before the undersigned, a Notary Public of said county, this third day of April, 1855. Witness my official seal. [SEAL.]

J. TRUSLER,
Notary Public.

And afterwards, to wit, on the (22d) twenty-second day of May, in the year of our Lord eighteen hundred and fifty-five, the complainant, by his counsel, comes and files his joinder in demurrer in these words, to wit:—

Joinder in Demurrer.

The complainants say that the said bill of complaint and the matters therein set forth in manner and form as set forth, are sufficient to entitle him to the discovery and relief prayed, &c.

JUDAH,
Counsel for Com.

And day is given.

And afterwards, to wit, at the June rules of said court, the complainant comes, by his solicitor, Samuel Judah, esquire, and files his amended bill to his bill of complaint as aforesaid, which is in these words, to wit:—

1st. Your orator states that by virtue of the said charter the said Co. had full power to make all necessary contracts in relation to the construction and completion of the said canal, and to sue and to be sued.

That in May or June, 184 , said canal was not complete from Laurel to Cambridge City, about 24 miles; that the said Co. wanted funds for that purpose, and to procure the same attempted to loan money from divers banks in the city of Cincinnati, but not from your orator, who states expressly that no proposition for a loan was ever made to your orator by any officers of the company. That at that time the Co. was indebted for scrip issued and in circulation (and receivable by the Co. for tolls, water-rents, and lands sold, and other debts), above $8000, and that said scrip was then worth in the market only from fifty to sixty cents on the dollar, and was difficult to sell at that price. That the said banks refused said loan on the credit of the Co. and the responsibility of the directors of the company personally, unless accompanied by mortgage on the real estate of the company and of the several directors, which mortgages said directors refused to give.

That previous to the said time the company had repeatedly attempted to procure money by a sale of bonds to be issued under said 18 section of their charter, and could never obtain an offer for them; and your orator was informed and believes that said sale of bonds could not be made, because in consequence of the provisions of the said act of incorporation the said canal would revert to the State

unless the same was completed in a certain time, and the uncertainty whether the company could complete the same, and also in consequence of the great liability of said work to injury or destruction from floods or other accidents. And your orator avers that the bonds of said Co. never have been worth seventy-five cents on the dollar in any market; and the bonds issued to your orator have never been salable at that price, and that he has never had an offer for same except at 60 cents from directors of the company for a few bonds; and was only able to dispose of the 26 bonds sold by exchanging the same for the stock of a bank of doubtful value at the time, and which has paid no demands on its stock for many years.

The said Co. did make propositions to your orator, who was then engaged in the purchase and sale of paper money, to buy up for the Co. the scrip above mentioned, which was declined; and then a conversation took place about a contract by your orator for the completion of the canal, which resulted in the proposition dated July 2, 1844, and which is set forth in the paper marked Exhibit A, now on file in this Court in this cause; that said proposition, being accepted, was followed by the contract of the same date, which is the paper marked Exhibit B, now also on file, as aforesaid, and both of which your orator prays may be made part of this amended bill. In making said proposal, your orator looked to the probable market price of the bonds and to the risks attendant on the nature of the work, and intended to secure to himself a margin sufficient to secure to himself a reasonable profit; that it was a contract in good faith for materials and for work at prices proposed and accepted, and not for a loan of money; that the work was done in good faith, under the direction of the engineer of the Co., by sub-contractors employed by and paid by your orator, and at his risk. Your orator further says that as the work progressed, on the estimates of the amount done by the said engineer made to said company, bonds of the said loan created as in the bill is above set forth were issued to your orator by order of the company, not as on a loan but in *bona fide* payment.

And your orator submits to the Court that he is advised by his counsel that said company had a right to give, and that your orator had a right to demand, such prices as under the circumstances and mode of payment they might deem proper; and also that from the nature of the transaction, as well as from the universal practice, the said company had the power and right to sell their bonds prepared as above at such price as could be had for the same; and that to establish a doubt even as to such power and right would destroy the validity and currency of many hundreds of millions of dollars of public securities, as well as prevent the progress and completion of all the public works of the State and country. And your orator also submits the notorious fact that the advance of the prices of labor and provisions has often ruined contractors, and forms a con-

tingency always to be looked to in contracts connected with public works.

SAM. JUDAH,
for Comp'a.

Exhibit A, referred to in above amended bill.

Mr. Vallette agrees to supply the materials and complete at his own expense sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, feeder 127, 130, 132 of the White Water Valley Canal, agreeably in all things to the plans and specifications exhibited to him by Mr. Moore, the chief engineer of the company, within one year from the 1st day of September next, weather permitting, for 125 of the bonds of the company, each for $1000, upon ten years' time, drawing an interest of seven per cent., payable semi-annually; and he agrees to pay the company a bonus of $500, in their own paper; and in case any change is made by the engineer that may diminish or increase the amount of work, the matter shall be adjusted by reference, if it cannot be amicably done, to the chief engineer of the company, the details of the agreement to be formally drawn out and executed by the parties.

HENRY VALLETTE.

July 2d, 1844.

I certify the above to be a true copy of the original proposition now on file in my office, and described in the record as marked A.

Attest: W. C. LAWRENCE,
Sec'y.

"*Exhibit B,*" *referred to in amended bill.*

This agreement, made and concluded this second day of July, in the year 1844, between Henry Vallette, of Cincinnati, party of the first part, and the White Water Valley Canal Company, party of the second part: Witnesseth, That the said party of the first part, contracts and agrees to construct in a good, substantial, and workmanlike manner, all that part of the line of the White Water Valley Canal, which is included in sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 130, and 132, and also the Green's Fork Feeder and feeder dam, and a road bridge on section No. 114, reference being herein had to the location of said line made by the State of Indiana, before she transferred said canal to said company agreeably to the following plan, that is to say: First. In all places where the natural surface of the earth is above the bottom of the canal, and where the line requires excavation, all trees, saplings, bushes, stumps, and roots, shall be grubbed and dug up at least sixty-four feet wide; that is, thirty-four feet on the towing path side of the centre, and thirty feet wide on the opposite side of the centre of the canal, and together with all logs, brush, and wood

of every description, shall be removed at least twenty feet beyond the outward line of said grubbing on each side, and on the space of twenty feet on each side of the said grubbing, all the trees, saplings, bushes, and stumps shall be cut down close to the ground, so that no part of any of them shall be left more than one foot in height above the natural surface of the earth, and shall also, together with all logs, brush, and wood of every kind, be removed entirely from said space. And the trees, saplings, and bushes shall also be cut down fifteen feet wide on each side of said space so as to be cleared, and also all trees which in falling will be liable to break or injure the banks of the canal, and wherever the situation of the line may require the grubbing, low chopping, and clearing shall be extended in breadth, so far that no uncleared land may be occupied by the embankment or excavation. And no part of the trees, saplings, brush, stumps, wood, or rubbish of any kind, shall be felled, laid, or deposited on either of the sections adjoining this contract. Second. The canal and banks shall be so constructed, and formed by excavations or embankments, as either, or both may be necessary, in order to bring the same to the proper level, as designated by the Engineers, or either of them, in the employment of said company, so that the water may in all places be at least forty feet wide in the canal at the surface, twenty-six feet wide at the bottom, and four feet deep. Each of the banks shall be at least two feet perpendicular measurement above the top water line, and such a slope shall be preserved on the inner side of the banks, both above and below the top water line, that every foot perpendicular rise in said banks shall give a horizontal base of one foot nine inches. The towing path shall be at least ten feet wide at its surface, and shall be raised to such a height above the top water line as may be designated by the Engineer; and wherever a difference in the elevation of the towing path shall occur, the ascent or descent shall be such as may be directed by the Engineer. The towing path shall be smooth and even, shall be composed of the best materials which the adjoining excavation will furnish, and shall be so constructed that the side next the canal will be six inches higher than the opposite side at the surface, with an uniform and regular slope, so that the water may run off from said path. In all cases where the materials excavated shall raise a spoil bank on either side of the canal above the exterior surface of the canal banks, it shall be placed so far from the edge of the canal as to give room for a ditch to be made eight feet wide in the bottom, and two feet deep, between said spoil bank and towing path, or bank opposite, as the case may be; and sluices or passages for the water shall either be left or cut through said spoil banks as often as the Engineer having charge of the work may direct, so that the water may drain off freely from the banks in an opposite direction from the canal. The bank opposite the towing path shall in no place be less than six feet wide at the surface, and shall be smooth and even, and shall be four inches lower at the back than on the

face of the bank; and neither of the banks shall have a slope of lesser base in proportion to its height on the outer than on the inner side, except when there is a redundance of stuff increasing the width of the bank beyond the requisition aforesaid. All loose and porous materials, and those which are perishable or permeable to water shall occupy the outer extremities of the banks, and for a distance of at least ten feet measured outwardly from the extremity of the top water line on each side the bank shall be composed both above and below the top water line, of the most pure, solid, compact, and water-tight earth which the adjoining excavation can supply; and no vegetable mould, muck, leaves, roots, grass, weeds, herbage, logs, sticks, brush, or any other substance of a porous or perishable nature, shall be left, laid, or in any way admitted into the said space of ten feet last described, and no wood of any description shall be admitted into any part of the banks. Third. In all cases of embankment, and where the bottom line of the canal is as much as two feet above the surface of the earth, all the trees, saplings, bushes, and stumps on the space occupied by the canal and its banks, shall be cut close to the ground, and together with all logs, brush, and wood of every description, shall be removed from a space of at least forty-five feet wide on each side of the centre of the canal; and from a strip fifteen feet wide under each bank to be so situated, that the outer side of said strip shall be perpendicularly under the outer extremity of the banks, all the trees, brushes, stumps, and roots shall be thoroughly grubbed, and together with all the logs, brush, roots, grass, herbage, vegetable and porous earth, shall be removed entirely without said bank, so that the banks may unite securely with the solid earth. And in all cases where the natural surface of the earth is below the surface of the water in the canal, a muck, or puddle ditch shall be dug under the centre of each bank, of the depth and width which may be directed, in order to guard effectually against leakage.

And the said party of the first part further covenants and agrees to build, found and erect, in a good, substantial, and workmanlike manner, all the locks on the aforesaid sections, conformably to the plan and specification for the same exhibited at the time of receiving proposals for constructing the work included in this contract.

And the said party of the first part further covenants and agrees to erect and build, in a substantial and workmanlike manner, all and any such aqueducts, culverts, or *culverts*, bridges, or other mechanical structures, in such place or places, on said sections and of such materials, form, dimensions and plan, as the Company or Chief Engineer, or other engineer in the employ of the Company may direct.

And it is mutually agreed that all the works on said section, or appertaining thereto, shall, during their progress, at all times be subject to the examination and careful inspection of the Chief Engineer, or any other engineer or agent of the Company employed for that purpose. And the party of the first part shall conform to such

rules as to the manner of doing any and of all the various kinds of work necessary for the construction of a canal on said section, works, or devices connected therewith, as may, from time to time, be given or prescribed by the Chief Engineer, or any engineer having charge of that part of the line; and the said party of the first part further agrees, at all times to conform to any alteration or deviation from the present canal line or level, and to any alteration in the plan, form, or manner of constructing the canal, or any of the works or devices connected therewith or appertaining thereto, which may be prescribed or directed by the Company, or any engineer having charge of the work. And it is further agreed, that the work specified in this contract, or contemplated thereby, shall be fully completed by the party of the first part by the first day of September, 1845, the weather permitting. And to prevent all disputes and misunderstanding between the parties, it is mutually agreed that H. C. Moore, or some other competent engineer to be selected by said Company, shall be the inspector of said works, and shall decide whether they have been performed agreeably to the requisitions of this agreement, and the instructions given as aforesaid by the Company or engineer. And it is further agreed, that if, in the opinion of said inspector, the party of the first part shall refuse or neglect to prosecute the work specified in this agreement in such a manner as to give reasonable assurances of its full completion by the time herein specified therefor, or shall neglect or refuse to conform to such rules or instructions as may be given in relation to the manner of doing the work, or to such alterations in the line, level, or plan of constructing the canal, as may be made agreeably to the stipulations of this agreement, or shall perform or suffer to be performed, any part of the work in an unfaithful or workmanlike manner, the said inspector shall in either case have power to determine that this contract is abandoned and forfeited by the party of the first part, and such a determination shall absolve the second party from every obligation imposed on them by this agreement. And the said Company may immediately thereafter proceed to dispose of the said sections in the same manner as if this contract never existed. And it is further agreed, that whenever this contract, in the opinion of the inspector aforesaid, shall have been completely performed in every respect, by said party of the first part, (provided the same shall be done by the time specified) the said inspector shall certify the same in writing under his hand, together with his estimate of the amount of the various kinds of work herein specified, which shall have been done under this contract, which estimate shall be final between the parties; and thereupon the said party of the second part hereby covenants and agrees to pay, within ten days after notice of said certificates and estimates, to the said party of the first part, the sum which, according to this contract, shall be due, agreeably to said estimates of the engineer, at the following rates or prices, to wit: For the grubbing and clearing per chain of four poles in length, four

dollars and thirty-five cents, ($4.35.) For earth excavation, estimating all earth necessarily excavated between and under the banks, including loose pieces of rock or stones of less than one-fourth of a cubic foot, (which are to be estimated as earth excavation) per cubic yard, fourteen and one-half cents, (14½.) For excavation of loose or detached pieces of rock or stones (those only to be estimated under this item which are over one-fourth of a cubic foot each), per cubic yard, sixty-five (65) cents. For each cubic yard of full embankment necessarily made (to be measured in the bank), fifteen and three-fourth (15¾) cents. For each cubic yard of single embankment (to be measured in the bank), fifteen and three-fourth (15¾) cents. Provided, That when any embankment is or can be formed, in whole or in part, from the earth necessarily excavated in the construction of the adjoining parts of the canal, nothing shall be allowed for such embankment, or such part thereof as is or can be so formed, unless the earth to form the same shall be necessarily removed over two chains, measuring in the direction of the centre line. For excavation of lock pit, per cubic yard, twenty-nine (29) cents. For excavation of aqueducts, culvert, or dam abutments, per cubic yard, twenty-nine (29) cents. For puddling around lock, aqueduct, or culvert, per cubic yard, thirty-six (36) cents. For lock embankment, per cubic yard, twenty-one and three-quarter (21¾) cents. For masonry in cut stone lock, per cubic yard, eleven dollars and sixty cents ($11.60). For slope wall at foot of locks, or about aqueduct or dam aqueduct, per cubic yard, two dollars and ninety cents ($2.90). For pavement of stone about aqueduct, or culvert, per cubic yard, two dollars and ninety cents ($2.90). For protection of loose stone on outside of canal banks, per cubic yard, two dollars ($2.00) cents. For stone filling in cribs of dam, per cubic yard, three dollars and sixty-two and a half cents ($3.62½). For gravel above dam, per cubic yard, forty-three (43) cents. For grouted masonry in culverts, or dam abutments, per cubic yard, eight dollars and seventy cents ($8.70.) For masonry in aqueduct abutments and piers, per cubic yard, eight dollars and seventy cents ($8.70). For timber in foundation of locks, per cubic foot, fourteen and a half cents (14½).

For timber in foundations of aqueducts, culverts, per cubic foot, fourteen and a half cents (14½); for square timber in aqueduct or culvert, per cubic foot, twenty-six (26) cents; for timber in aqueduct trunks, per cubic foot, ; for sheeting and range timber in cribs of dams, per cubic foot, eighteen (18) cents; for breast timber on dam, per cubic foot, twenty-nine (29) cents; for round ties in dams, regulators, or in wharfs, per foot, run cents; for trees and poles in foundation of dams, per cord, five ($5 00) dollars cents; for laying three-inch plank in lock foundation, per square foot, one and a half (1½) cents; for two-inch oak plank in lock, culvert, aqueduct or dam foundations, or in sheet piling, per square foot, seven (7) cents; for iron in lock floors, and sides and dams,

including spikes, per lb., eighteen (18) cents; for each road bridge, framed, raised and floored, complete, three hundred dollars ($300.00); for lock gates and mitre sills, complete, with all necessary fixtures, seven hundred ($700) dollars; for completing unfinished bridge on section 113, one hundred and sixteen ($116) dollars.

For bridge embankment, per cubic yard, twenty-six (26) cents; for excavation of pits of culverts, aqueduct or dam abutments below water that cannot be drained lower, per cubic yard, one dollar and ten ($1 10) cents; for dry wall masonry in locks, &c., cubic yard, seven dollars and twenty-five cents ($7 25).

For laying masonry of stone already delivered by the Company, including cement and grouting of the cut stone wall, per cubic yard, two dollars and twenty cents; this price to apply to all dry wall built of old stone also; for oak timber in breasts of lock and tumble, per cubic foot, twenty-one cents (21); for oak timber in caps, sills, posts, &c., in frame of lock, forty-three cents per cubic foot (43); for beech timber, in cribs above and below locks, per cubic foot, eighteen (18) cents; for laying delivered timber in foundation of locks, per cubic foot, five cents (5).

For two-inch oak plank in sides of lock, per square foot, eight cents (8); for one-inch oak plank in lining sides of lock, per square foot, four (4) cents; for aqueduct trunk, per foot lineal, including all materials, seventeen (17) dollars; headgates and fixtures at dam, one set, seventy-five dollars. And whenever the grubbing, clearing or excavation of any of the different kinds herein specified, embankment, or any other work to be done under this contract, shall be increased or diminished by conforming to any alteration of the line, level or plan of the work now made, agreeably to the direction of the chief engineer, or any engineer having charge of the work, as hereinbefore agreed, the quantity or amount of such increase or diminution of any or all the kinds of work herein specified, shall be estimated by said inspector, agreeably to the foregoing rules; and the sum to be paid to the contractor shall be increased or diminished accordingly, agreeably to the rates and prices hereinbefore specified.

It is further expressly agreed that the party of the first part shall constantly superintend the work herein specified, and all parts thereof (except so far as sickness or other unavoidable accident may prevent), and a failure to comply with this requisition shall be considered and adjudged a forfeiture and abandonment of this contract on the part of the said party.

It is further mutually agreed that, at any time when in the opinion of the inspector aforesaid, the party of the first part shall neglect or refuse to prosecute the work specified in this agreement, or any part thereof, so as to give a satisfactory assurance that it will be completed by the time stipulated herein, that the chief engineer shall be authorized to appoint an agent to superintend said work, or such part thereof as he may deem proper. The agent so employed shall be authorized to employ hands and to purchase the necessary mate-

rials for carrying on and completing all or any part of the work to be performed under this agreement; and his receipt for money paid him by the Company shall be a good and sufficient voucher against the party of the first part; and all money so paid to the agent shall be charged to, and, on a final settlement of the accounts, deducted from the sum which under this agreement may be payable to the party of the first part.

And it is further agreed by the contracting parties that, during the progress of the construction of the work herein contemplated, estimates shall be made by the engineer having charge of the work about once in sixty days; and the engineer shall give his certificate of the quantity or amount of labor which the party of the first part shall have performed necessarily under the stipulations and conditions of this agreement; and the party of the second part hereby agrees to pay, within ten days after notice of the estimate and certificate of the engineer shall have been made to the party of the first part, nine-tenths of the amount or sum which, according to this contract, shall at the time be due, according to the estimates of the engineer, for the labor which shall have been performed.

It is also further agreed and understood by and between the parties hereunto, that the party of the first part is held liable for the payment of the wages of all laborers who may be employed on the jobs herein contracted, or on any works connected therewith, whether they be employed by the party of the first part, or by any sub-contractor or agent under the said party; and when, in the opinion of the chief engineer, it may be necessary to secure the laborers, employed as aforesaid, their wages, and he may think justice requires it, he is hereby authorized to pay to said laborers the amount of their claims, and their receipts so made shall be good against the party of the first part.

It is further understood, that all the stone quarried in excavating the canal, shall belong to the company, unless used in constructing some of the works herein contemplated.

It is further understood and expected that the party of the first part will use all reasonable exertions to discourage and prevent the use of all spirituous liquor by the laborers engaged on this contract.

And it is further agreed, that the work embraced in this contract shall be commenced on or before the 1st day of Sept. next.

In the performance of the work required to be done under this contract, it is expressly understood that the party of the first part is to conform to all the rules, specifications and notices to bidders, which are in force on the line and exhibited in the engineer's office, at the time of this contract is made, which rules, specifications and notices to bidders shall be taken and considered a part of this contract as fully and completely in all respects as if they were embodied herein. And for any work required to be done under this contract, or on any of the sections herein embraced, the price of which is not herein specified nor included in the price of any other item, the party

of the first part shall be allowed such price as the Chief Engineer of the company shall determine to be just and reasonable relating to the other prices embraced in the contract, and that determination not being satisfactory, the matter shall be determined by equitable arbitration.

It is further agreed that said Vallette shall receive from said company, in payment of his entire demand in this behalf against the company, the bonds of the company at their face—each bond to be drawn for the principal sum of one thousand dollars ($1,000), and bearing interest at the rate of seven per cent. per annum, payable semi-annually in the city of New York. The company shall furnish all the iron to complete the work embraced in this contract—to be delivered in Lawrenceburgh, and for the same the said Vallette shall pay the company in their own paper the cost of the iron at that point in the same medium, or, should he prefer it, he shall pay for the same eight cents per pound in par funds; and it is further agreed that said Vallette shall pay said company a bonus in the paper of the company of five hundred and twenty-two dollars ($522).

It is further agreed that the company are to furnish to the party of the first part all the hydraulic cement, and in the building of the locks and aqueducts for which they are to charge him three dollars per barrel, delivered at Laurel.

HENRY VALLETTE.

Signed duplicates: M. HELM,
President.

Attest:
L. B. TUPPER, *Se'cy.*

Copy of a Bond of the Whitewater Valley Canal Co.

UNITED STATES OF AMERICA,
State of Ia. $ *Bond* 1000.

The White Water Valley Canal Co. Canal Loan Seven per cent. Bond, under the act of the General Assembly of the State of Ia., entitled an act to incorporate the White Water Valley Canal Co., January 20th, 1842.

Know all men by these presents, that there is due from the White Water Valley Canal Co. to Henry Vallette, or bearer, the sum of one thousand dollars, bearing interest at the rate of seven per cent. per annum, from the date hereof, payable semi-annually on the first days of February and August, at the office of Messrs. Jno. Ward & Co., in the city of New York, on the delivery of the dividend warrants semi-annually subjoined, until the payment of the principal sum, which principal sum being part of the first and only loan of one hundred and twenty-five thousand dollars, created by the company under their charter for the completion of their canal, is payable in ten years from this date, and for the punctual payment of the interest and the ultimate redemption of the principal agreeable to

this contract, the faith of the company, and their effects, both real and personal, are irrevocably pledged.

And, according to the specifications of the charter of the company, it is agreed that this bond, with the other bonds of even tenor and date with this, shall have a preference over all debts that be hereafter created by the company, and in default of the payment of interest according to the stipulations herein, it is further agreed between said company and the holder of this bond, that such holder may enter immediately into the receipts of the tolls and water rents, and other incomes of said company, by applying to the *District* or *Circuit Courts* of the United States, or any court of justice that may be in session in the State of Ia., to appoint a receiver of said incomes of said company, and apply the proceeds to the payment of the interest due on this and said other bonds of even tenor and date. And the company hereby waive all rights of appeal in this behalf to any other federal or State court.

And it is further agreed, that in the event of the collection of interest by legal process, the holder hereof shall have adjudged to him ten per cent. as liquidated damages on the amount of interest so collected, in consideration of the injury that may result to this security, because of the default aforesaid. Witness the signatures of the President of the Company, and the attestation of the Secretary, at Connersville, Ia., this first day of February, A. D. 1845.

Signed by M. HELM,
Presid't.

Attest:
L. B. TUPPER, *Sec'y.*

Coupon Dividend Warrants.—The White-water Valley Canal Co., under the charter act of 20th January, 1842, Messrs. Jno. Ward & Co., of the City of New York, pay to the bearer *thirty-five dollars*, being six months' interest on bond, No. fifty-six (56), due Feby. 1st, 1855.

L. B. TUPPER, *Sec'y.*

Coupon or Dividend Warrants.—Under the charter act of 20th January, 1842, Mess. Jno. Ward & Co., of the City of New York, at your office, pay to the bearer *thirty-five dollars*, being six months' interest on bond fifty-six (56), due August 1st, 1855.

L. B. TUPPER, *Sec'y.*

And afterwards, to wit, at a Circuit Court begun and holden at Indianapolis, before the Honorable John McLean, one of the Associate Justices of the Supreme Court of the United States, on the 22d day of May, in the year eighteen hundred and fifty-five (1855).

The parties by their solicitors now come, and on motion of complainants the demurrer filed at rules by the defendants is set down for argument and hearing on Wednesday next; and the complainant gives notice that he will then and there move the Court for an injunction, and to appoint a receiver agreeably to the prayer of the bill.

And be it further remembered, that heretofore, to wit, on the

(11th) eleventh day of March, eighteen hundred and fifty-five, Philip Dater, John Howland, Thomas M. Hooker and Woodward Haven filed, in the office of the Clerk of said Court, their certain bill of complaint against the said White Water Valley Canal Company, which is in the words and figures following, to wit:—

INDIANA, TO WIT:—

To the Honorable the Judges of the Circuit Court of the United States for the District of Indiana.

Your orators, Philip Dater, John Howland, Thomas M. Hooker and Woodward Haven, citizens of the State of New York, bring this their bill against the White Water Valley Canal Company, a corporation created by law of the State of Indiana, and having its principal office of business transactions and the canal situated in the last named State.

And thereupon your orators complain and say that, heretofore, to wit, on the second day of February, 1855, one Henry Vallette, a citizen of the State of Ohio, filed in this Court his bill in Chancery against the said White-water Valley Canal Company, which bill is still pending, and remains for the necessary proceedings thereon and determination of your honors, a true copy of which said bill is to this your orator's bill attached, and which they pray may be made a part of this their bill of complaint. Your orators further show that the allegations, matters and things in said bill of the said Vallette set forth are true in substance and matter of fact, except only so far as the same may vary from and be inconsistent with facts, matters and things alleged and set forth in this your orator's bill, and so far your orators adopt and rely on the allegations and statements, especially so in regard to the execution of said bonds, with the interest warrants attached thereto, the rate of interest thereon, and the liquidated damages for non-payment thereof, and make said bill, by incorporation, a part of this their bill.

Your orators further show to your honors that the said Vallette, for a valuable consideration to him paid, transferred and assigned by delivery thereof twenty-six of the bonds so executed to him by said Company, for one thousand dollars each, with the unpaid interest warrants thereon; which said bonds, so transferred and assigned by said Vallette, are now owned and held by your orators, they being the bearers thereof, for a valuable consideration, as follows, to wit: Your orator, Philip Dater, is the holder, owner, assignee and bearer of bonds, No. 13, 14, 15, 16, 17, 18, 22, and 40, making in all eight thousand dollars of principal, and $1,400 of interest warrants, being the five interest warrants of thirty-five dollars each attached to said bonds, being the interest warrants due the first day of February and first day of August, 1853, and the first day of February and the first day of August, 1854, and the first day of February, 1855. Your orator, Woodward Haven, is the holder, owner and bearer of six of said bonds, No. 26, 27, 32, 33, 34, and 35, making in all six thou-

sand dollars of principal, and $1,050 of interest warrants of thirty-five dollars each attached, being five interest warrants attached to each of said bonds, being those due the first day of February, 1853, the first day of August, 1853, the first day of February, 1854, the first day of August, 1854, and the first day of February, 1855.

Your orator, John Howland, is the holder, owner, assignee and bearer of six of said bonds, No. 24, 25, 48, 52, 53, 54, being six thousand dollars of principal, and two hundred and ten dollars of interest warrants thereto attached, being the interest warrants due the first day of February, 1855; and your orator, Thomas M. Hooker, is the holder, owner, assignee and bearer of six of said bonds, No. 64, 65, 67, 69, 77, 78, being six thousand dollars of principal, and two hundred and ten dollars of interest warrants thereto attached, being the interest warrants due the first day of February, 1855. Your orators further show to your honors that the said several bonds and the interest aforesaid, and the interest on the principal sums, and the said several interest warrants, and the liquidated damages, by reason of the non-payment of said interest warrants, remain wholly unpaid; all of which bonds, with the said several interest warrants attached, are still in the hands of your orators, ready to be exhibited to the Court and filed as your honors may direct, a copy of one of which, to wit, bond No. 18, is herewith filed, and is in the similitude of all the other bonds aforesaid, except as to the number of the bond and of the interest warrants attached thereto and to said copy. Your orators therefore pray your honors to order that they may be admitted to prosecute with the said Vallette the said bill, now pending in this Court, and that the defendants thereto may be required to make answer to the allegations, matters and things in this their bill set forth, in same manner as prayed by said Vallette in his said bill, and that the relief prayed by the said Vallette in his bill, may be deemed by your honors to your orators, or such other and further relief as to your honors may seem meet, or the nature of their case may require: And in the event that the said Vallette shall decline to allow your orators to come in and prosecute his said bill with this their bill, then they pray that he may be made a defendant hereto, and that said Company may be compelled to answer under their corporate seal, and said Vallette under his corporal oath, all and singular the allegations, matters and things set forth in this your orator's bill of complaint: And in that event, will your honors appoint a receiver to manage said canal, and receive the tolls, water rents and other profits thereof, and decree the sale of said canal, its effects, appurtenances and franchises, to the said several bonds, interest warrants, damages and interest; or otherwise decree to your orators such other and further relief as to your honors may seem meet, or the nature of their case may require: And as in duty bound your orators will ever pray, &c.

NEWMAN & SIDDALL,
Compl'ts' Solicitors.

Here follows copy of Vallette's bill part of the foregoing Bill to wit:

To the Hon. the Judges of the Circuit Court of the Unied States for the District of Indiana. Your orator, Henry Vallette, a citizen of the State of Ohio, complains of the White Water Valley Canal Company, a corporation created by a law of the State of Indiana, and having its principal office, and transacting its business in the State of Indiana, and a citizen thereof, and states:

That by the 18th section of the act of corporation of the said company, to wit: an act in the General Assembly of the State of Indiana, entitled an act to incorporate the White Water Valley Canal Company approved the 20th January, 1842, it was provided, that the President and Directors of said company or any agent of them thereto by them lawfully authorized, should have full power to negotiate any loan or loans which might by said company be deemed expedient for carrying out any or all of the objects contemplated by the said act, and for the payment of such loans agreeably to the terms agreed upon. Such company should bind themselves by their bonds, which bonds when signed by the president and attested by the secretary of said company and by the company duly ordered to be issued, should be a valid lien upon all the stock and effects of said company in the order of their issue; and all the effects of said company, both real and personal, should be deemed and taken as pledged for the punctual payment of the interest on said bonds, and the ultimate redemption of the principal agreeable to contract; and that the said company about the 1st day of February, 1845, created a loan for the use and benefit of the said company amounting to the sum of one hundred and twenty-five thousand dollars, and on account of such loans issued bonds to the amount of one hundred and sixteen thousand dollars, each of which bonds so issued was for the sum of one thousand dollars; one hundred and twelve of them were dated the 1st day of February, 1845, and four of them were dated the 9th day of July, 1845, and all were issued and delivered to your orator for value received, and were payable to him, or bearer, but of which last mentioned bonds, three have been paid and one either has been paid or is now held by some person or persons to your orator unknown.

That by the terms of said bonds the said company acknowledged that there was due on each of them from said company to your orator or bearer the sum of one thousand dollars bearing interest at the rate of seven per cent. per year, payable semi-anually from the date thereof, on the first days of February and August, at the office of Messrs. John Ward & Co., in the City of New York, on the delivery of the coupons or dividend warrants attached to said bonds, until the payment of the principal sum, which principal sum being part of the first and only loan of one hundred and twenty-five thousand dollars, created by the company under their charter, for the completion of their canal, is payable in ten years from the date of

said bonds, and for the punctual payment of said interest and the ultimate redemption of the principal according to the said contract, the faith of the company and their effects both real and personal were by the said terms of the said bonds irrevocably pledged.

And that by the terms of said bonds it was also further provided, that in pursuance of the specifications of the charter that said bonds should have a preference on all debts that might thereafter be created by said company; and that by said terms of said bonds it was further provided that in case of failure to pay interest according to said bonds, the holder of each of said bonds might, by application for a receiver to the proper Court, enter into the immediate receipt of the tolls, water rents, and other income of the said company. All of which will appear by reference to said bonds, a copy of one of which, the others being of the same character, is hereto attached and made part of this bill.

And that the complainant is now the owner and holder of eighty six of said bonds, all of the date of the 1st of January, 1845, together for the sum of eighty-six thousand dollars all of which is due and payable on the first day of February, 1855, and that for interest there is due the sums of $6,020 00, being $3,010 00 due on the 1st day of August, 1854, and $3,010 00 on the first day of February, 1855, and on which the same being payable in the city of New York, the claimant is entitled for exchange to about the further sum $75 00, and also by the tenor of each of said bonds it is further provided that in the case of the collection of the said interest by course of law, the said company shall pay the holders of said bonds 10 per cent. on the amount of said interest, as and for liquidated damages, which amounts to the further sum of $602 00, and that by an act of the General Assembly of the State of Indiana, entitled "An Act to legalize certain proceedings therein named, and approved January 4th, 1845.

The said bonds were made valid in law; and that the said company has refused and yet refuses to pay said principal, interest, and exchange, all of which is now due and owing to the complainant; and that the remainder of said bonds, being twenty-six in number, were lately held as the complainant is informed and believes, in parcels to him unknown, by John Howland, Thomas M. Hooker, Philip Dater, and Woodward Haven, all of the city of New York, and he prays that the said person or the persons to whom said bonds, or any of them, may have been transferred, and also the owner of the one bond not yet paid, dated the 9th of July, 1845, may be permitted to come in as complainants on due contribution towards the expenses, and be made parties to this suit.

Your orator further states that he is informed and believes that the said company is wholly destitute of real or personal estate, other than the said canal, its tolls, water rents, and franchises; and that the said franchises are essential to the enjoyment of the said canal by any purchaser thereof; and that the said company is entirely in-

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solvent; that the said canal from its nature requires constant repair; and that many of the locks and other structures of said canal are now in bad condition, requiring a speedy outlay of a large sum of money to prevent the destruction of the canal; that the complainant does not know the precise amount of the stock of said company, but believes that it is from $350,000 to $450,000, in shares of fifty dollars each, all paid up; that there is now due and owing by the said company debts by bonds and otherwise, subsequent and subject to the loan above set forth, amounting to more than $250,000, that the gross income of said company for the year ending 1st January, 1855, was about $25,000, and for the current year will not probably exceed $30,000, and the ordinary expenses of keeping up the canal and of superintendencies, should be from $15,000 to $20,000 per year, and that consequently the capital stock of said company is now notoriously worthless, and cannot be sold at any price; and that in the case of any extraordinary accident, by floods or otherwise, the said company is wholly destitute of the funds or credit necessary to prevent the total destruction of the canal, which said accidents have occurred, and may occur again, in which event your orator would be without remedy.

To the end, therefore, that the defendant may, according to the best of its knowledge, information, and belief, full, true, and perfect answer make to such of the several interrogatories hereinafter mentioned and set forth as by the note hereunder written, they are required to answer, that is to say:—

1st. Whether said company did not issue said bonds in manner and form, and for the amounts, and with the pledges and agreements contained.

2d. Whether said copy attached to this bill is not a true copy of each of these bonds; and, if not, in what does it differ from, any of said bonds?

3d. Whether said company is not wholly destitute of property other than said canal; and if not, in what does it consist?

4th. Whether said company is not wholly insolvent?

5th. Whether said canal does not require constant repair, and what is its present condition?

6th. What is the amount of the capital stock of said company, and what is its present value per share?

7th. Is the company indebted other than on the said bonds? and if so, to what amount, and when were the debts created?

8th. What was the gross income of the said company for the year 1854? and what will be the probable income of the year 1855?

9th. What were the expenses for the year 1854, and what will be the probable expenses for the year 1855?

10th. Who are the present President, Directors, Secretary, and Treasurer of the said Company, and when were they elected or appointed?

And that the tolls, water rents, and other incomes of the said defendant may be applied to the payment of the said interest and prin-

cipal during the pendency of this suit by a receiver thereof, to be appointed by this Court, with the aid of an injunction, if necessary, for that purpose; that the said canal, with all its appurtenances to the rights and water rents, and the capital stock and franchises of the said company, may be sold to satisfy to your orator and to such other persons entitled as may come in and be made parties to this bill, the money due them on the said bonds.

And that your orator may have such other relief as may be just and equitable. May it your Honors to grant the writ of subpœna, &c.

SAM'L JUDAH,
for Complainant.

Note.—The defendant is required to answer under its corporate seal the interrogatories numbered, respectively, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and propounded in the above bill.

SAM'L JUDAH,
for Com.

(*Copy of Bond No.* 18, *and interest warrants unpaid.*)

UNITED STATES OF AMERICA,
State of Indiana.

$1,000. No. 18.

The White Water Valley Canal Company.

Canal Loan. Seven per cent. bond under the act of the General Assembly of the State of Indiana, entitled "An act to incorporate the White Water Valley Canal Company," Jan'y 20, 1842.

Know all men by these presents, that there is due from "the White Water Valley Canal Company," to Henry Vallette or bearer, the sum of one thousand dollars, bearing an interest of seven per cent. per annum from the date hereof, payable semi-annually on the first days of February and August, at the office of Messrs. John Ward & Co., in the City of New York, on the delivery of the dividend warrants semi-annually subjoined, until payment of the principal sum, which principal sum being part of the first and only loan of one hundred and twenty-five thousand dollars created by the company under their charter for the completion of their canal, is payable in ten years from this date, and for the punctual payment of the interest and ultimate redemption of the principal, agreeable to this contract, the faith of the company and their effects both real and personal are irrevocably pledged. And according to the specifications of the charter of the company, it is agreed that this bond, with the other bonds of even tenor and date with this, shall have preference over all debts that may be hereafter created by the company. And in default of the payment of interest, according to the stipulations herein, it is further agreed, between said company and the holder of this bond, that such holder may enter immediately into the receipt of the tolls and water-

rents and other incomes of said company by applying to the District or Circuit Court of the United States, or any Court of justice that may be in session in the State of Indiana, to appoint a receiver of said incomes of said company, and apply the proceeds to the payment of the interest due on this and said other bonds of even tenor and date. And the company hereby waive all right of appeal in this behalf to any other Federal or State Court. And it is further agreed, that in the event of the collection of interest by legal process the holder hereof shall have adjudged to him ten per cent. on the amount of the interest so collected as liquidated damages, in consideration of the injury that may result to this security because of the default aforesaid.

Witness the signature of the President of the Company and the attestation of the Secretary, at Connersville, Indiana, this first day of February, 1845.

M. HELM,
President.

Attest,
L. B. TUPPER,
Secretary.

The White Water Valley Canal Company.

Under the Charter Act of January 20, 1842, Messrs. John Ward & Co., of the City of New York, at your office, pay the bearer thirty-five dollars, being six months' interest on Bond No. 18, due February 1, 1855.

L. B. TUPPER,
Sec.

The White Water Valley Canal Company.

Under the Charter Act of January 20, 1842, Messrs. John Ward & Co., of the City of New York, at your office, pay the bearer thirty-five dollars, being six months' interest on Bond No. 18, due August 1, 1854.

L. B. TUPPER,
Sec.

The White Water Valley Canal Company.

Under the Charter Act of January 20, 1842, Messrs. John Ward & Co., of the City of New York, at your office, pay the bearer thirty-five dollars, being six months' interest on Bond No. 18, due February 1, 1854.

L. B. TUPPER,
Sec.

The White Water Valley Canal Company.

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L. B. TUPPER,
Sec.

And afterwards, to wit, at a Circuit Court, begun and holden at Indianapolis, in the district aforesaid, before the same judges as first above said, on the (25th) twenty-fifth day of May, in the year eighteen hundred and fifty-five—

HENRY VALLETTE
vs.
THE WHITE WATER VALLEY CANAL COMPANY.
In Chancery.

PHILIP DATER, et al.,
vs.
THE WHITE WATER VALLEY CANAL COMPANY.
In Chancery.

The Respondents now come by Smith, Fay & McLean, their solicitors, and move the Court to consolidate the above suits, upon the ground that the equities of the two cases are the same as against the respondents, and it is essential to the defence, which is the same as to both suits, that the answer should cover the whole equity of both cases, and both be heard together.

Whereupon the motion is continued for argument until Monday next.

And afterwards, to wit, at the said May Term, of said Circuit Court, and present the same judges, as first above said, on the thirty-first day of May, eighteen hundred and fifty-five.

The parties, by their solicitors, now come, and the Court overrule the demurrer filed at rules. And by consent of parties, the motions to consolidate the above two mentioned suits, is sustained; and the respondents are ruled to answer the bills as consolidated.

And thereupon the respondents file their answer in these words and figures, to wit:

STATE OF INDIANA, *ss:*

Before the Honorable Judges of the Circuit Court of the United States for the District of Indiana.

The answer of the White Water Valley Canal Company, the defendant to the bill of complaint of Henry Vallette, the complainant, taken under the common seal of said corporation, as by said seal hereunto affixed, appears.

This defendant, saving and reserving all manner of benefit and advantage to the many errors and insufficiencies in said bill contained, for answer unto so much or such parts thereof as this defendant is advised is material to make answer unto, answers and says:

That it is true the defendant was created a corporation by an act of the General Assembly, of said State, approved January 20, 1842, for the purpose of completing the White Water Valley Canal, extending from Lawrenceburgh to Cambridge City, a distance of 70 miles. The said canal was undertaken by the State, in 1836, and completed from Lawrenceburgh to Brooksville, 31 miles, and some work done on the balance of the line, at a cost of $1,006,115, when the State suspended operations on the same.

In 1842, the General Assembly incorporated said company, who proceeded to complete said unfinished part of said canal, extending from Brookville to Cambridge City, 39 miles, and who, prior to July, 1844, completed the same to Connersville, leaving the portion thence to Cambridge City, 12 miles, unfinished, though one-half of the work on the same, to fit it for navigation, had been performed.

Further answering, said defendant says, that it is time the said company, by the 18 section of her charter, is authorized to negotiate any loan or loans that may be by said company deemed expedient for carrying out any and all of the objects contemplated by said act, but this defendant denies that she created a loan of $125,000, or any other sum whatever, in which the said Vallette participated, otherwise than as hereinafter stated.

And in answer to interrogatory No. 1, the said defendant further answering, says, that on or about the 2d July, 1844, the said company desired to make a loan of some $60,000 to complete said canal; that the estimate of the probable amount of work and the cost of completing said unfinished portions of said canal had been made by the Engineer of the company, from which it appeared that some $64,662 98 would be required to complete said canal from Connersville to Cambridge City.

That under these circumstances, the President of the Company applied to said Vallette for a loan to complete said canal, of some $60,000, which the said Vallette was unwilling to loan, unless he could realize 100 per cent. on his investment, and which the said company was willing he should do; but the said company being unauthorized to negotiate any loan or loans at any present rate of interest than 6 per centum per annum, that being the rate of interest allowed by the laws of said State, or to dispose of their bonds at less than par, it was agreed between the President and Directors of said Company, and the said Vallette, that the said Vallette should present to the President and Directors a proposition in writing,

wherein Vallette should propose to enter into an agreement to complete certain sections and work on said canal, being the same unfinished portion thereof, estimated by the engineer as above stated, for 125 in the bonds of the company in the sum of $1000, each payable in 10 years, bearing 7 per cent. interest, payable semi-annually, and pay the company a bonus of $500 in their paper.

And that thereupon the said President and Directors would accept said proposition, and directed said contract to be entered into. Thereupon the said Vallette presented said proposal drawn up by the attorney of the company, a copy whereof is herewith shown and made a part of this answer, and marked Exhibit A. And the President and Directors accepted said proposition, and entered into said agreement specified in said proposal, wherein it was agreed on the part of said Vallette to do certain work therein named, being said unfinished portions of said canal at certain prices, and which prices are on an average 100 per cent. above the estimated prices of said work, as estimated by the engineer as above stated, and fully 100 per cent. above what said work could be contracted and performed for, and which prices were a device to cover up said usurious interest. And the said estimates of said engineer were prior to said contract, or proposal submitted to said Vallette to enable him to determine what addition should be made to said prices in order to make his investment produce 100 per cent., for which work it was agreed that the said Vallette should receive the bonds of the company in the sum of $1000 00 each, payable in 10 years, bearing 7 per cent. interest, payable in N. Y. semi-annually, and pay the company $522 00 in their own issue, a copy of which agreement is herewith filed, and made part of this answer, and marked Exhibit B. That the engineer of the company took charge of said work and superintended the same, and the said Vallette for his greater security in the application of said funds to the payment for the said unfinished portion of said canal, paid the same out directly, himself on the said work. That the cost of said work amounted to $56,000, and on account whereof, the said Vallette received the 112 bonds for $1000 each, of the character described in said bill of complaint from said company. The bonds Nos. 92, 93, 94, and 95, were 7 per cent. bonds, the first 2 payable in 2 years, the last 2 in 3 years, were issued on account of interest on the first 91 bonds due August 1, 1845, and were received by said Vallette at 70 cents on the $1. The said interest and exchange on N. Y.,being called $2,506 92, leaving a balance of $293 08 due from said Vallette, the said bonds being taken at $2,800 00. Thirty-five of the 112 bonds were issued in lieu of the 12 other bonds No. 1 to 12, inclusive, dated Oct. 29, 1844, and 23 other bonds Nos. 13 to 35, inclusive, dated January 6, 1845, which were surrendered to said company on the 7th April, 1845, and the present first 35 of 112 issued. No other bonds were issued to said Vallette, nor were any issued in any other manner than as above described, and the said 112 bonds are of the same

tenor, date, and amount, and the said copy is admitted to be correct. But the said defendant denies that the said bonds were legally issued to said Vallette, or that they were made valid by the said act of January 4, 1845, without any other loan than such as was made under said contract with said Vallette as above stated, was made of him by said company. And the said defendant says that said 112 bonds are usurious and illegal, that the company receiving for said 112 bonds for $1000 each, $56,000 and no more, and that said bonds Nos. 92, 93, 94, and 95, were usurious and illegal, except the sum of $293 08 having been received at 70 cents to $1, for interest on 91 of said bonds as aforesaid.

That the said contract between said Vallette and said President and Directors was entered into to evade the law of the State of Indiana against usury, and obtain a higher rate of interest on his loan than was allowed by the charter of the company and the law of the State, and to enable said Vallette to pay out said loan in the completion of said canal and prevent its being devoted by the company to other indebtedness of which he had fears, if the company should undertake to pay it out.

Further answering, said defendant says, that said 4 bonds, to wit, 92, 93, 94, and 95, have all been fully paid, except 92, on which there is a judgment and a small balance may be remaining unpaid. That there has been paid to said Vallette on account of 116 bonds and to others, holders of a portion thereof, $75,327 94, a statement of which with the sums and date is herewith shown and made a part of this answer, and is marked Exhibit C, herein thus exceeding the amount of said loan of $56,000, $19,327 94, without interest, which amount the said company asked a decree for against said Vallette, that 26 of said 112 bonds are held in New York, 6 by John Howland, 6 by Thomas M. Hooker, 6 by James Haven, and 8 by Philip Dater, on which suit is now pending in this Court by them as the defendant, and that there has been paid on said bonds since so held $12,582 11, which sum is included in the said sum of $75,327 94.

The said defendant further answering, says, that the said President and Directors had no power or authority to issue said 116 bonds to said Vallette on said contract as aforesaid, that said contract was fraudulent and grossly unreasonable and unconscientious in consequence of the gross and unconsciable prices fixed by said Vallette and the said President and Directors in said contract on said work.

Further answering, said defendant says, in answer to interrogatory No. 2, that the copy of said bond annexed by said complainant to his bill is a true copy of each said 112 bonds. Further answering said defendant says, in answer to interrogatory No. 3, that said company is not wholly destitute of property other than said canal. That it possesses real estate valued at $2,060 00, personal property valued at $500 00, real estate for hydraulic purposes valued at $10,538 96, amount due the company for water power, stock, &c., 1st January 1855, $36,333 03, making in all $49,431 99.

Further answering, said defendant says, that to answer to interrogatory No. 4, that said company is not wholly insolvent.

And in answer to interrogatory No. 5, the said defendant says that the said canal does not require constant repair to the injury of its revenues or usefulness, and the entire canal is in a better condition and has been so ever since the completion of the repairs of 1853–4, than it ever was before.

And the respondent denies that it requires any outlay to prevent its destruction or to contribute to its usefulness in any material matter.

Further answering, said defendant says, in answer to interrogatory No. 6, the capital stock of said company is $470,505 79 paid, $3,894 21 unpaid, in shares of $50 each.

It is difficult to say what is its value, as it must depend on the contingency whether the country is hereafter to be visited by the destructive floods that have for 7 years past proved so injurious to this work, and on the consideration whether the Co. has at last succeeded in giving to the particular works such as dams and aqueducts on the lower part of the canal a capacity and strength to resist the recurrence of the highest floods that have been known. At the time the State commenced said canal and afterwards, up to 1847, no extraordinary floods had been known in the White Water River, and none such as occurred in January, 1847, had been anticipated. Another of the same character occurred in October of the same year, and another at the close of December, 1852. The work as originally constructed was not calculated to resist them. In rebuilding the works where most damage was done they were enlarged, and in reconstructing them in 1853–4 they were again enlarged and strengthened, and are now double their original capacity, and are thought by the engineers of the company to be secure against any flood. In December, 1852, the stock found ready purchasers at from $12 to $15, per share, and in 1853, there was a considerable amount sold at public sale at $5,00 per share. The water power of the company is very great, amounting when properly used, it is believed, to 1000 powers, and the canal having destroyed the water power on the river, the power of the company must become very valuable. The powers are leased at from $100 to $150 per power per annum.

Further answering said defendant says, in answer to interrogatory No. 7, that the said company if indebted other than the said bonds to Vallette about $190,982 81, of this sum $21,113 84 originated out of the small transferable certificates of stock, alias scrip, part issued to contractors on the canal for work prior to said contract with Vallette, and which debt takes precedence of said bonds, of this sum $2,036 is outstanding, $16,393 77 has been deposited with the company and bonds issued therefor, $2,684 07 has been deposited, for which certificates have been issued; a statement whereof is herewith filed and marked Exhibit D.

There is due from the Company $6,292 48 on account of dividends declared June, 1845, December, 1845, and July, 1846, and unpaid.

On account of repairs demanded by the damage done to the canal from the floods in the White Water River in 1847 and 1848, there is due the sum of $97,520 52. This sum is due to various individuals; a statement whereof, and the amounts, is herewith filed and marked Exhibit E.

At the close of the year 1852 a flood occurred in the White Water River, doing great damage to the canal, and requiring an expenditure of over $100,000 to restore the canal and place its works in a condition of probable security against further similar disaster. The president and directors of s'd company proposed to s'd Vallette that he should raise the funds required to repair s'd canal, and hold it and receive its revenues until reimbursed, which he refused to do. He was at the same time informed by s'd president and directors that the company could not raise the necessary funds unless they should pledge the accruing revenues for the payment thereof, and that they should raise the funds in that way. That the s'd company expended in repairs on said canal in 1853 and 1854, about $115,000 00. That of this sum there is due and unpaid $61,695 00, of which $17,021 47 is due to the various persons who loaned s'd company their money to repair s'd canal under the agreement that the first moneys arising from the tolls and water rents of s'd canal should be applied to its payment. The names of those who so loaned their money, and to whom any balance is still due, with the terms of such loan, are herewith shown, and the same is made a part of this answer, and is marked Exhibit F.

The s'd president and directors also employed various persons to do work on s'd canal in making s'd repairs, and agreed to pay them for the same out of the first moneys arising from the tolls and water rents of said canal after its restoration. That to several of the contractors so employed there is a balance due $12,527 37, a statement whereof, with the names and amounts respectively, is herewith shown and made a part of this answer, and is marked Exhibit G, herein. The s'd Vallette was informed that the s'd president and directors were borrowing money and employing contractors to repair s'd canal by pledging its future revenues therefor, at and during the time thereof, and in several instances he expressed his assent and willingness thereto, and gave the s'd act his sanction; and that in no instance, to the knowledge or information of the company, did he object thereto. The s'd persons who so loaned their money to said company, and the s'd contractors who so performed work on s'd canal as aforesaid, and remaining unpaid, have a prior right and equity to the payment of their respective demands, over all other creditors of s'd company. And the president and directors failing to raise in the manner aforesaid sufficient amount to justify s'd repairs being undertaken or carried on, or to obtain contractors who would undertake the work on the terms aforesaid, raised from the stockholders of s'd company by an assessment of 10 per cent. on the s'd stock, the sum of $32,146 25, all of which is due and unpaid. And inasmuch

as certain ruin impended over said canal unless repaired, and as the funds to go on with the same could not be otherwise raised than by s'd forcible loan from the stockholders thereof as aforesaid, they are in justice and equity entitled to the payment of their respective loans in preference to any claims arising prior to the 1st January, 1853; a statement whereof with the names and amounts, is herewith filed and made a part of this answer, and is marked Exhibit H.

There is due to present and former officers of the company, $4,360 88.

Further answering, said defendant says in answer to interrogatory No. 8, that the gross income of s'd company for the year 1854, was $26,187 23. The crop was light and the canal was not in full repair till late in the season, when the White Water Canal uniting with s'd canal at Harrison, and terminating at Cincinnati, was out of repair for a considerable period, which diminished the receipts of the former. The probable income for 1855 is $35,000.

And, in answer to interrogatory No. 9, the s'd defendant says that the expenses for the year 1854 were $23,828 37, as follows: Ordinary expenses, $5,377 21; ordinary repairs, $8,400 00; extraordinary repairs, being part belonging to the repair of '53, $10,056 16.

The probable expenditure for 1855, $15,000.

Further answering, s'd defendant says that the repairs and expense of s'd canal for the year 1852, were $11,618 07, and the income $49,661 20.

And the s'd defendant further answering, in answer to interrogatory No. 10 says, that the present directors of s'd Co. are, George Davis, Sherman Scofield, Abraham B. Conwell, Henry Peele, C. W. West, Richard Walker, John Goodly, Orville Gordon, and Richard W. Colum, elected in January, 1855; A. B. Conwell, President, W. E. Laurence, Secretary, and Lafayette Conwell, Treasurer of said company, appointed at the same time.

Further answering, said defendant says that the coupons attached to the said bonds held by said Vallette as described in his said bill calling for $6020, interest on said bonds August 1, 1853, $3010 00, and February 1st, 1854, $3010 00, were by said Vallette assigned and transferred to C. W. West, Henry Hanna, and Abraham B. Conwell, who it understood still hold the same, and which are unpaid.

Further answering, said defendant says that all of the tumble breast walls of the locks built by said Vallette under his said contract were built in such an unworkmanlike and imperfect manner, that they have in two instances fallen down, and were rebuilt by the company at an expense of $1,000 00 each.

That in every other instance, being nine in number, the company has been obliged to prop them up to keep them from falling down.

That there were 11 locks in his s'd contract, and the tumble walls

in each instance were built in disregard of the s'd contract and specifications in relation to s'd tumble walls, and in consequence thereof the s'd company was defrauded to the amount of $11,000 by the said Vallette in the building of said walls.

That it was unknown to the company at the time, and only came to her knowledge upon the falling down of said tumble walls as aforesaid. That it will require an expenditure of $9,000 00 more to rebuild them in the manner s'd Vallette contracted to build them, which added to the $2000 already expended makes 11,000 00, which this defendant claims on account of the damage sustained by her as aforesaid.

Having fully answered said bill, your respondent prays that this may be taken and held to be an answer in both cases, that an account may be taken, and that such sum as may be found the s'd company have paid on account of said loan of $56,000 over and above said principal sum, may be decreed to be referred to this defendant with interest thereon, and that the said bonds may be decreed to be surrendered and cancelled, and that said defendant may have such further or other relief in the premises as shall to this Honorable Court seem just and proper.

A. B. CROMWELL,
Pres't.

Attest:
W. E. LAWRENCE,
Secretary.

Exhibit A, referred to in the above answer.

Mr. Vallette agrees to supply the materials, and compute at his own expense sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, Feeder 127, 130, 132, of the White Water Valley Canal *Canal* agreeably in all things to the plans and specifications exhibited to him by Mr. Moore, the Chief Engineer of the company, within one year from the 1st day September next, weather permitting, for 125 of the bonds of the company, each $1000, upon ten years time, drawing an interest of seven per cent., payable semi-anually, and he agrees to pay the company a bonus of $500 in their own paper, and in case any change is made by the engineer that may diminish or increase the amount of work, the matter shall be adjusted by reference, if it cannot be amicably done, to the Chief Engineer of the company, the details of the agreement to be formally drawn out and executed by the parties.

July 2d, 1844. HENRY VALLETTE.

I certify the above to be a true copy of the original proposition now on file in my office and described in the record as marked A.

Attest. W. E. LAWRENCE.
Sec'y.

"Exhibit C," referred to in the above answer.

1846,	Feb'y	1st,	Paid	Henry	Vallette	a't interest	4537 72
"	July	27	"	"	"	" "	4151 71
1847,	Jan'y	23	"	"	"	" "	1410 50
1848,	Oct.	11	"	"	"	" "	738 86
"	Nov.	10	"	"	"	" "	1298 23
"	Dec.	11	"	"	"	" "	1243 69
"	"	19	"	"	"	order	50 00
1849	Jan'y	16	"	"	"		789 04
"	Feb'y	13	"	"	"		279 28
"	M'ch	7	"	"	"		410 94
"	"	23	"	"	"		5 00
"	Ap'l	20	"	"	"		2439 77
"	May	5	"	"	"		2234 05
"	June	8	"	"	"		1136 29
"	July	23	"	"	"		857 00
"	Aug.	20	"	"	"		300 00
"	Oct.	9	"	"	"		1321 00
"	Nov.	20	"	"	"		911 00
"	Dec.	6	"	"	"		691 28
1850,	Jan'y	18					1215 23
"	Feb'y	14					1507 97
"	Oct.	17					1654
"	Nov.	17					1726 58
"	Dec.	15					1450
"	"	23					255 15
1851,	Jan'y	13					1892 88
"	"	25					800 00
"	Feb'y	6					2205 32
"	M'ch	8					1541 33
"	Ap'l	14					1408 —
"	May	12					982 —
"	June	9					999 —
"	Aug.	2					840
"	Sept.	13					1025
"	Oct.	12					1491 15
"	Nov.	10					1891 79
"	Dec.	22					1596
1852,	M'ch	11					1451 45
"	"	23					16 30
"	May	27					1500 00
"	Aug.	1					1603 19
"	"	"					27 41
"	Nov.	12					2800 00
"	"	18					60 72
1854,	Feb'y	1					6000
							62,745 83

Payments of interest a't 26 bonds held in New York.

1849, M'ch	21	Cash	1034		
" July	13	"	1097	80	
" Sept.	27	"	417	43	
1850, Jan'y	8	"	505	18	
" July	2	"	650		
1851, Ap'l	30	"	1033	99	
1852, Jan'y	10	"	1017	36	
" Ap'l	28	"	3940	88	
" Aug.	1	"	910	55	
1853, Dec.	9	"	210	00	
1855, Feb'y	22	"	1760	92	12,582 11

Total amount paid a't interest on 112,000 $ bonds $75,327 94

Exhibit E. Bonds issued for Loans, 1847 *and* 1848, *in answer.*

Jeremiah May	$10 00	Daniel Fiant	$10 00
M. Helm	100 00	Berry Clifford	10 00
Geo. Frybarger	850 00	David Hoover	5 00
James Handley	25 00	Charles Williams	25 00
Enoch Lewis	10 00	Alfred Mount	20 00
Wm. Daily, Jr.	5 00	Angelo Bennett	5 00
Joseph Caldwell, Jr.	5 00	John Pleak	10 00
Philip Snider	5 00	Ephraim Clifford	25 00
Joseph Draper	10 00	Wm. Pursell	50 00
Geor. Corwine	5 00	John Hughes	5 00
Henry Walker	10 00	John Little	5 00
John Caldwell	50 00	John Ryburn	20 00
Joseph B. Grubb	10 00	Enoch Harlan	100 00
John Clifford	45 00	Charly Frost	60 00
John Loder	30 00	Delilah Hall	5 00
W. W. Thomas	55 00	John McIlwain	100 00
Jas. Ward	50 00	Saml. Steel, Jr.	10 00
Jonas Fiant	10 00	Saml. Henderson	5 00
Clayton Laubert	5 00	Saml. Steel, Jr.	10 00
Mathew Harlan	10 00	Thos. Hibbs	5 00
Wm. Cason	10 00	E. D. McConnell	50 00
Andrew Applegate	5 00	Abram Miller	20 00
Alex. Dale	55 00	G. A. Anderson	10 00
Philip Mason	25 00	C. Lewis	20 00
James C. Rea	10 00	Thos. Murlatt	20 00
Daniel Baker	5 00	Jas. Griffen	20 00
John Messersmith	50 00	Seth Buffington	55 00
Geo. Davis	50 00	Theodore Purcell	25 00
A. Shrader	5 00	Saml. Harlan,	50 00
Wm. Duncan	7 34	Peter Messersmith	25 00
Wm. Patten	40 00	Joel Messersmith	5 00

Thos. Henry	10 00	Jacob Daubenspeck	50 00
Ambrose Caryton	10 00	Jas. M. Green	10 00
	$1,582 34		$845 00
Valentine Foland	30 00	Miller, Brown & Hawkins	200 00
Joel Scott	10 00	Silas H. Stone	40 00
L. C. Florea	10 00	S. Buffington	25 00
Lewis Ellis	10 00	John C. Williams	50 00
J. & M. Hittle	5 00	Enoch Stephens	20 00
John Brumfield	10 00	Thos. R. Stanford	10 00
John McCarty	10 00	H. E. Peck	6 00
Jas. Trussler	5 00	Ellen McNamara	800 48
John A. Clements	5 00	R. P. C. Barwick	10 90
Daniel Lake	5 00	J. L. Shank	35 00
W. Holland	5 00	Bery Childers	50 00
Oliver P. Ross	25 00	C. W. Morrow	10 00
Saml. Halstead	5 00	Saml. E. Williamson	5 00
Wm. Russell	25 00	John Birket	10 00
John Goudie	10 00	Hosea Hayden	5 00
Thos. Disher	15 00	Z. A. Nye	20 00
John Eagan	10 00	S. C. Parkhurst	250 00
Nathan Harlan	5 00	Isaac Shoemaker	250 00
Wm. Hollingshead	50 00	Otho McCarty	5 00
John Elliott	15 00	B. F. Trowbridge	15 00
Joshua G. Gregg	20 00	Geo. Harlan	10 00
Abm. Hathaway	10 00	Wm. H. Evans	20 00
John J. Swift	5 00	Jesse Laramore	5 00
John P. Brady	10 00	James Webb	5 00
Eli Wright	20 00	A. B. Fonts	10 00
Ze. Conway	5 00	R. & S. Tyner	326 03
John Whippo	50 00	John Lemon	50 00
John Huston	25 00	Pat. Hannegan	22 00
Gideon Myers	20 00	John Godley	300 00
David Mount	41 93	Geo. G. Shoup	1,666 67
David Lewellin	5 00	" "	708 33
Robt. Jeffries	15 00	" "	166 67
Daniel Hawkins	500 00	" "	416 66
Thomas D. Hawkins	25 00	" "	166 66
John Huntsinger	5 00	" "	416 66
Christian Herr	20 00	" "	416 67
Fred. Johnsonbaugh	580 00	" "	125 00
Andrew Moffit	20 00	" "	41 67
Jno. Hawkins	30 00	" "	41 66
Wm. Sparks	25 00	" "	41 67
Ellen McNamara	90 00	" "	41 67
Jas. McCollem	10 00	Jesse Winship	25 00

Chas. Morris	25 00	Geo. G. Shoup	883 33
Joel Morris	25 00	Isaac Dunn	250 00
C. W. West	1,000 00	Jacob Hays	250 00
R. B. Bowler	500 00	Wymond & Ferris	100 00
Gregory, Burnett & Co.	200 00	Davis Woodward	50 00
Tyler, Davidson & Co.	300 00	C. Hiser	4 04
Jas. C. Hall	200 00	D. Links	113 58
C. B. Reeder	500 00	" "	100 00
Goshorne, Patterson & Co.	100 00	E. McNamara	229 56
R. McGregor	200 00	Eli Henby	8 00
Blackwell & Denning	250 00	Hugh Wallace	12 44
Wm. Atkins & Co.	500 00	E. Corbin	25 00
Charles Stetson	300 00	H. Simpson	40 00
Person & Hoffman	100 00	O. P. Morton	51 79
Blackley & Simpson	300 00	Isaac Jenkins	20 00
L. Fagin	250 00	P. W. Vorhees	20 00
S. C. Parkhurst	250 00	Elly B. Lake	15 00
R. Buchanan	100 00	T. S. Wright	61 00
J. & J. Slevin	250 00	Spartan Lodge, No. 24	113 20
E. F. Seybold	100 00	N. Singer	12 37
Miles Greenwood	200 00	R. Calvin	8,500 00
Warren Hartshorn	500 00	Jacob Robsomer	5 00
	$9,529 27		$18,749 67

Jacob Sholl, Jr.	10 00	Junction R. R. Co.	70 92
Saml. Ball	118 50	Thomas V. Mitchell	34 50
Dunsmoor & Johnson	164 18	Elias Shaffer	14 74
J. W. Gliddon, (balance)	1 49	Ulrich Burke	1,000 00
Thorp, Van Bergen & Co.	63 66	Wm. Ruddell	3 34
Geo. G. Shoup	821 65	John Ryman	35 00
Van Bergen & Kirk	2,142 76	J. M. Clements	10 00
O. G. Keschum	12 98	Richd. Calvin	1,061 20
Jacob Drischel	20 87	Richd. Nash	50 00
Z. H. Nye	25 00	B. Baylan	100 00
John F. Kimble	19 61	J. Johnson & Co.	150 00
Price & Lindsey	45 42	John Miley	250 00
Warren Tibbs	60 00	Ball & Davis	200 00
" "	80 00	Reys, Malbley & Co.	100 00
" "	82 89	Geo. H. Calvert	100 00
Abm. Myers	10 00	James Gorman	200 00
Lewis G. Evans	50 00	Wm. C. Stewart	200 00
Ezekiel Reed	5 00	J. R. Coram & Co.	250 00
Henry Griffin	3 48	Griffin Taylor	500 00
N. H. Burk	10 00	W. W. Cooper	250 00
Jas. Logan	5 00	Nicholas Longworth	2,000 00
G. G. Shoup	229 90	Springer & Whiteman	300 00

Jas. A. Hadley	1,600	00	W. & R. P. Resor	200	00
Daniel Wampler	11	05	Ingram & Co.	250	00
George Graham	400	00	Wm. Colville	200	00
Samuel Rees	268	62	Nixon & Co.	100	00
Robt. Stoops	12	18	Messick, Taylor & Co.	150	00
Ulick Burke	275	00	Wm. B. Smith & Co.	50	00
Joseph Dale	25	00	John Baker	50	00
Joseph Amushberger	30	00	George Davis	20	00
Vore & Kirk	65	00	Benj. Norris	20	00
John Roberts	860	00	Saml. Whatson	5	00
Jno. Wilson	100	00	John Carpenter	5	00
Saml. Harlan, Sr.	40	00	Saml. W. Holmes	5	00
Nancy Harlan	40	00	Danl. Barbour	5	00
M. McCrury	60	00	Henry Myers	5	00
A. Brookbanks	40	00	Lewis Smith	5	00
Jacob Werks	40	00	Benj. Norris	5	00
John Clifford	55	00	John Vandyke	5	00
Jacobs Werks	40	00			
Jas. Woods	20	00	Jas. Armstrong	5	00
Jno. Bundy	60	00	R. S. Cox	5	00
Jno. W. Bond	20	00	Wm. H. Lord	5	00
J. W. Macy	40	00	John Blackledge	10	00
R. Calvin	60	00	Conrad Cline	5	00
Geo. G. Shoup	400	00	Jas. Shuldy	10	00
Scott & Scofield	120	00	Peter Smelser	5	00
H. C. Moore & Co.	40	00	Andrew Smelser	5	00
Neff & Brothers	60	00	Jas. McCowen	10	00
Sampson, Lindly & Co.	200	00	Wm. Scruggs	5	00
Muller & Lawrence	100	00	Wm. Clifford	5	00
John Elslner	80	00	Jacob Parrish	5	00
John Baker	140	00	Jas. Hannah	5	00
Chas. Neave	100	00	Garrett Wykoff	10	00
Campbell, Ellison & Co.	200	00	John Roberts	875	00
Harrison & Hooper	200	00	Philip Mason	5	00
Hunter & Wells	100	00	Saml. Harlan, Sr.	15	00
Bates & Whitcher	100	00	Jesse Hiatt	40	00
Traber & Aubry	100	00	John Crum	30	00
Jno. Banes	280	00	Ezra Walton	5	00
J. W. Macy	40	00	J. P. Muzzy	5	00
R. Calvin & Co.	500	00	Jno. Bundy	10	00
Wm. Payne	5	00	Jno. Dill	10	00
W. Prockor	5	00	John Shaffer	5	00
Thos. Worster	10	00	Jas. Barnard	5	00
	$20,423	51		$27,804	43
W. B. Wirthank	10	00	John Roberts	400	00
Jacob Weeks	10	00	Jno. Banes	735	00

James Woods	30 00	J. D. & C. Jones	1,159 00
Richard Goodwin	10 00	Joseph Mullikin	100 42
Henry Raymond	25 00	Hez. Mount	1,410 32
Henry E. Peele	15 00	Robt. Houston	19 13
John G. Fulton	80 00	John Whippo	208 20
Vare & Kirk	10 00	Silas Andrews	234 55
Sol. Earl	5 00	E. Applegate	92 12
C. W. West & Bro.	185 00	John Powell	251 17
Mathew Hastings	10 00	Lewis Smith	6 41
A. C. Davis	5 00	Minor Meeker	83 81
Houston & Pierce	10 00	Geo. Davis	293 65
Geo. Heimer	25 00	Alex. Dale	418 61
C. B. Jackson	15 00	Wm. Jeffrey	41 48
John Swazey & Co.	100 00	M. Helm	125 75
C. C. Parkhurst	5 00	John McIlwayne	100 66
John Baker	395 00	John S. Newman	1,737 81
R. Calvin & Co.	5 00	Samuel Hannah	1,152 96
Geo. G. Shoup	395 00	F. C. Holliday	22 90
Scott & Scofield	125 00	Sarah Holliday	22 90
H. C. Moore & Co.	5 00	Israel A. Hannah	23 08
Jno. Banes	850 00	Wm. Banks	10 33
M. McNamara	80 00	C. B. Smith	896 57
C. W. West & Co.	140 00	Robt. Griffis	69 70
John McCan	65 00	Daniel Fiant	16 81
Geo. Waldorf	110 00	Wm. P. Hannah	22 94
N. Feror	25 00	Wm. Lair	100 81
Geo. G. Shoup	575 00	Jno. S. Newman	36 39
J. W. Macy	65 00	Joel Pusey	397 74
R. Calvin & Co.	140 00	Eb. Cooper	45 09
John Limpus	30 00	Benj. Thomas	16 81
Scott & Scofield	200 00	Eph. Clifford	33 53
Wilcox & Reed	175 00	E. D. McConnell	42 21
		Amount brought up	$29,682 15
Jas. Arnold	18 83	James Woods	1,429 53
Nancy McCabe	84 07	Chas E. Shipley	83 71
Thed. White	41 87	E. Carver	8 39
M. H. Larimore	16 80	A. B. Connell & Son	3,247 00
Lucinda Green	27 57	Jacob M. Klum	74 97
J. H. Hill	45 51	Geo. Luckey	350 99
John Scott	57 83	Richd. Nash	49 72
Geo. Holland	342 97	Joseph Dale	174 33
Wm. Dickey	43 50	H. Hannah	16 80
John Furris	38 20	Nancy Worcester	16 78
H. H. Gillon	14 49	Hopkins & Hiatt	83 30
Joseph Anderson	156 34	Miller & Houston	16 82
John Gregg	53 44	Justus Wright	50 46

Geo. Winchell	12	88	Isam Harvey	81	74
J. M. Ross	24	29	Berry Harvey	81	74
C. W. West	16	72	Nathan Harvey	81	74
James Rariden	1,718	62	Wm. C. Harvey	81	74
John Clifford	456	18	Mary E. Jackson	81	74
James Veatch	58	65	Jane A. Ray	81	74
Joel Pusey	130	61	John P. Harvey, hrs.	81	74
Joshua Pusey	503	97	Mary E. Harvey	20	43
Hacker, Lea & Co.	495	79	Alonzo D. Harvey	20	43
James Fitzgerald	35	47	Margaret J. West	20	43
Sarah Pickell	142	76	C. M. Harvey	20	45
Henry Hensey	42	15	Wm. Dickey, 3d	50	43
Wm. Gordon	184	69	Avery Gates	41	70
John Huddeston	84	00			
Saml. Harlan, Sr.	130	76		$74,154	49
Morrison & Nelvby	140	46			
Thos. Jeff. Crusler	167	30			
Geo. Harlan	16	77			
John Baker	16	82			
J. C. Smith	25	13			
John Buchanan	16	70			
	$29,682	15			

"Exhibit F.," referred to in answer.

We, the undersigned, promise to pay to the White Water Valley Canal Company the sums set opposite our names, for the purpose of putting said canal in repair, to be paid in cash, in instalments of thirty-three per cent., every thirty days, as the work may progress, the same to be repaid out of the first moneys arising from the tolls and water rents from said canal, which are to be deposited monthly, as they are collected, with Mr. Richard Tyner, of Brookville, Indiana, as receiver, who is appointed by said Company for said purpose, and to be by him repaid proportionately each month, together with six per cent. interest per annum and five per cent. bonus therefor.

CINCINNATI, OHIO, *Jan'y* 17, 1853.

Names.		Names.	
Sherwood & Co.	$100	Watts & Collum	500
Day & Matlock	500	Walker & Bros.	2000
John Gates	200	Curalington & Brooks	200
Comstock, Wilcox & Co.	500	H. Clearwater	300
Humswell, Hill & Co.	500	Ridgely & Brothers	300
Tyler, Davidson & Co.	299	John Swazey & Co.	3000
Carney, Swift & Co.	1000	Trowbridge & Beattie	500
Reeves & Stephens	500	Rooks & Coe	3000
James McKee	200	H. D. Chapman & Co.	500

Names.		Names.	
R. W. Booth & Co.	300	Ingram & Co.	1000
Stadler & Bros.	200	Rooks & Co.	300
Jenkins & Co.	100	J. & W. Huston	298
Conklin & Hubbard	100	W. F. Gebhart	150
Abram Palmer	100	Frybarger, Moore & Co.	506
Miller & Brown	500	Citizens of Wayne Co.	600
C. W. West & Co.	2000	J. G. Banes (Metamora)	250
B. H. Burton	100	Jno. Banes	300
Geo. Holland & Co.	600		

Exhibit G.

Statement of amounts due contractors for repairs of the White Water Valley Canal in 1853.

Names of contractors.	
Frybarger, Moore & Co.	$496 00
Geo. Scott	766 80
Limpus & Bros.	306 49
Shoup, Cullum & Co.	1,705 08
Woods & Gordon	852 54
Tyner & Roberts	4,152 03
Roberts & Willis	174 24
Spencer Wiley	400 00
Richard Calvin	2,000 00
John Miley	1,000 00
Bennett & Miley	647 19
	$12,527 37

Attest,
[SEAL.] W. E. LAURENCE,
Sec'y.

* At a meeting of the Board of Directors of the W. W. V. C. Co. on 14th January, 1853, it was ordered—

That the President notify Henry Vallette, a bondholder and creditor of this Co., that the canal has been laid waste by the late flood, and that the Co. have no means within its control to repair the same, and that he, being the largest creditor, is entitled and requested to have the same repaired, and to hold it and all its revenues until he is reimbursed; and also to notify the said Vallette that unless he will proceed forthwith to repair the dam that the Board will issue bonds, anticipating its future revenue, to repair the same; and that Mr. Vallette's answer and determination on this subject is respectfully requested, that the Board may proceed to act.

And, for the purpose of learning Mr. Vallette's reasons on this subject, the following telegraphic dispatch was sent to him: "The

Board have determined to repair the canal by anticipating its revenues, if Mr. Vallette will not; his answer will he do it immediately, and hold it until reimbursed? is requested. By order of the Board.

JAS. RARIDEN,
Pres't."

Mr. Vallette's reply by telegraph from Cincinnati:—

"To JAS. RARIDEN:—

I decline having anything to do with the canal. I will extend the next August interest 6 months.

Signed H. VALLETTE."

I certify the above to be a true copy of the record in my office.

W. E. LAURENCE,
Sec'y.

CONNERSVILLE, *March*, 1855.

At a meeting of the Board of Directors of the W. W. V. Canal Company, held on 14th January, 1853, among other things it was ordered—

That the President, Secretary, and George G. Shoup are hereby appointed a committee, with authority and whose duty it shall be to solicit and contract for loans to make the repairs to the canal, with power to appoint agents under them for the same purpose, and to put any or all the repairs under contract, first, with a view to speedy navigation, and secondly, to make permanent repairs, so as to make the canal safe against disasters; said committee, when all other things are equal, giving preference to contractors who will contract to do any portion of the repairs and look to the revenues of the canal after the same shall be made navigable; and such contractors are hereby placed on the same footing with those who may loan money to make repairs to the amount of the repairs they make.

Attest,

W. E. LAURENCE,
Sec'y.

Affidavit of G. Y. Roots.

G. Y. Roots, being duly sworn, deposes and says that on the fourteenth day of January, 1853, he called upon Henry Vallette, at his residence in Cincinnati—having been requested so to do on behalf of the board of directors of the White Water Valley Canal Company—to ascertain what arrangement, if any, could be made with the said Vallette in regard to repairing the damage which had been lately done to the said canal by a freshet in the White Water river, by which said canal had been laid waste and rendered utterly valueless, if permitted to remain in its then present condition. And this affiant

states that he had a conversation with the said Vallette, during which the whole matter was fully talked over, and the said Vallette absolutely declined taking and repairing said canal at his own expense, receiving his pay therefor out of the first receipts of tolls, water-rents, &c., the revenues of said canal, but declared he would not have anything to do with said canal; and upon its being represented to him, the said Vallette, that no one would advance money or take contracts to repair said canal so long as he, the said Vallette, held and claimed the first lien upon all the revenues of said canal, he then expressed his willingness to postpone his claim to be first paid in favor of all persons who would advance money or take contracts for making repairs upon said canal, giving them, as was proposed by the board of directors of said company, the first lien and claim upon all the revenues accruing after the completion of the contemplated repairs; and he, the said Vallette, then made a calculation as to how long a time he supposed it might take to pay back the sum of money necessary to be expended in making said repairs, and thereupon gave a memorandum in writing, of which the following is a true copy:—

"I decline having anything to do with the canal. I will extend the next August interest six months.

Jan'y 14th, 1853. H. VALLETTE."

And this affiant further states that, afterwards and during the same conversation, the said Vallette was understood to agree that if the time mentioned in his memorandum above set forth should prove not to be long enough that he would extend the time as might be necessary.

And this affiant further states that it was distinctly understood by the said Vallette that the Board of Directors could not obtain the means necessary to repair said canal without pledging the first revenues after the completion of said repairs for the repayment thereof, and that he assented thereto; and by so doing this affiant, as one of the firm of Roots & Co., was induced to advance the sum of $3000 in money for the purpose of making said repairs, and would not have done so unless from the representations of the said Vallette he had been convinced that the revenues of said canal would be first applied *pro rata* to the repayment of the means advanced by divers individuals for making said repairs.

And this affiant further states that in pursuance of said understanding and agreement with the said Vallette, he, together with a large number of others, did make the advance above named upon the pledge that the first revenues of said canal should be appropriated to the repayment thereof, and that he has only received in repayment the sum of $600, and that the balance is still due and unpaid. And this affiant further states that the papers hereto attached and marked A he believes to be a true copy of his contract with the company, and that said paper contains, as he believes, the names

and sums of money advanced by the different persons therein named to said company for the purpose of making said repairs, and that he does not believe that over twenty per cent. has been repaid to any one person upon said advance. And further this affiant saith not.

G. Y. ROOTS.

Subscribed in my presence this 7th April, 1855.

J. D. JACKSON,
Notary Public, Ham. Co., O.

Copy of paper marked "A" and referred to in affidavit of G. Y. Roots.

We, the undersigned, promise to pay to the White Water Valley Canal Company the sums set opposite our names, for the purpose of putting said canal in repair, to be paid in *cash*, in instalments of thirty-three per cent. every thirty days, as the repairs may progress, the same to be repaid out of the *first* moneys arising from the tolls and water-rents from said canal, which are to be deposited *monthly*, as they are collected, with Mr. Richard Tyner, of Brookville, Indiana, as receiver, who is appointed by said company for said purpose, together with six per cent. interest per annum and *five* per cent. bonus therefor.

And to be by him *repaid* proportionably each month.

Names.		Names.	
John Miley	$1000	Comstock, Wilcox & Co.	500
Roots & Co.	3000	Ingran & Co.	500
C. W. West & Co.	1500	Abraham Palmer	100
John Swasey & Co.	3000	Huntington & Brooks	200
Walker & Brothers	2000	Hummersville, Hill & Co.	500
H. D. Chapman & Co.	500	B. Farlow	100
Sherwood & Co.	100	Stadler & Brother	200
Day & Matlock	500	R. W. Booth & Co.	300
J. M. McKee	200	B. H. Burton	100
Watts & Colburn	500	Geo. Holland & Co.	600
N. Rees, Stephens & Co.	500	J. G. Banes	250
Tyler, Davidson & Co.	300	John Banes	300
A. Conklin & Co.	100	John Gates	200
James C. Hobart	100	Ridgeley & Brother	300
Miller & Brown	500	G. S. Jenkins & Co.	100
Tyner & Roberts	1000	A. C. Clearwater	300
Carney, Swift & Co.	1000		

Joseph Torrence, being duly sworn, deposes and says that, on the fourteenth day of January, 1853, he called upon Henry Vallette at his residence in Cincinnati, having been requested so to do on behalf of the Board of Directors of the White Water Valley Canal Company to ascertain what arrangement, if any, could be made, with the

said Vallette, in regard to repairing the damage which had been lately done to the said canal by a freshet in the White Water River. And this affiant states that he had a conversation with the said Vallette, during which the whole matter was talked over, and the said Vallette absolutely declined taking and repairing said canal at his own expense, receiving his pay therefor out of the first receipts of tolls, water rents, and the revenues of said canal, but declared he would not have anything to do with said canal; and upon its being represented to him, the said Vallette, that no one would advance money or take contracts to repair said canal so long as he, the said Vallette, held and claimed the first lien upon all the revenues of said canal, he then expressed his willingness to postpone his claims, to be first paid in favor of all persons who would advance money or take contracts for making the repairs upon said canal, giving them, as was proposed by the Board of Directors of said Company, the first lien and claim upon all the revenues accruing after the completion of the contemplated repairs, and he, the said Vallette, then made a calculation as to how long a time he supposed it might take to pay back the sum of money necessary to be expended in making said repairs, and thereupon gave a memorandum in writing, of which the following is a true copy:

"I decline having anything to do with the canal. I will extend the next August interest six months.

Jany. 14*th*, 1853. H. VALLETTE."

And the affiant further states, afterwards, and during the same conversation, the said Vallette was understood to agree that, if the time mentioned in his memorandum, above set forth, should prove not to be long enough, that he would extend the time as might be necessary.

And this affiant further states that it was distinctly understood by the said Vallette that the Board of Directors could not obtain the means necessary to repair said canal without pledging the first revenues after the completion of said repairs for the repayment thereof; and that he assented thereto, and by so doing this affiant, as one of the firm of C. W. West & Co., was induced to advance some $1,500 in money, for the purpose of making said repairs, and would not have done so, unless, from the representations of the said Vallette, he had been convinced that the revenues of said canal would be first applied pro rata to the repayment of the means advanced by divers individuals for making said repairs. And this affiant further states that, in pursuance of said understanding and agreement with the said Vallette, he, together with a large number of others, did make the advance above named, upon the pledge that the first revenues of said canal should be appropriated to the repayment thereof, and that he has only received in repayment the sum of $300, and that the balance is still due and unpaid; and further this affiant saith not.

JOS. TORRENCE.

Richard Calvin of the County of Hamilton, of lawful age, being first duly sworn by me, as hereafter certified, deposes as follows:—

In all my connections with Henry Vallette, the above named plaintiff, in and since the year 1847, he stated that he was willing that all the labor debts, or debts contracted in repairing said canal, should be paid before and in preference to his own claim against said company.

RICHARD CALVIN.

Sworn to before John O. Phares Mayor, Harrison, Hamilton County, Ohio.

John Miley, duly sworn, deposes and says, that in the month of December, 1852, there was a great freshet in the White Water river, by reason of which great damage was done to the White Water Valley Canal, and the said canal was laid waste, and rendered entirely useless and valueless, unless a large sum of money should be expended in repairing the embankments, locks, dams, &c. Application was made to this affiant to take a contract to repair said canal: but this affiant having understood that Henry Vallette had, by certain bonds, the first and prior lien upon the receipts of every kind of said canal, objected to taking said contract; but afterwards, some time in the month of January, 1853, this affiant had an interview with Henry Vallette at the office of Roots & Coe, in the city of Cincinnati, and then told said Vallette that he would not take a contract because he was in the way, and that he, the said Vallette, would have to repair the canal himself, as no one would do work or lend money unless they could be paid out of the first receipts of tolls, water rents, &c., the receipts of said canal over and above the expenses, and that the said Vallette then told this affiant to take a contract and go ahead, that he would never disturb him or others who made the repairs on the canal, or loaned their means to that end; that unless the repairs were made his, the said Vallette's, security was lost and valueless, and that he would not make the repairs himself, but that it was right the persons making said repairs, or giving their means therefor, should be paid first out of the receipts of the canal, and that they should be so paid, and that he, the said Vallette, would not ask for anything due him until the amount so expended in repairing said canal was repaid to the parties to whom it was due. And this affiant further states, that upon their representations thus made to him by the said Vallette, he did take a large contract for doing repairs on said canal, which he would not otherwise have taken at all, and that he took said contracts and completed them to a large amount, viz: to about the sum of thirty thousand dollars, and all upon the faith that he, the said affiant, should receive his pay out of the first receipts above expenses of the canal, in the same proportion with others doing work or advancing money to make said repairs. And this affiant further states, that there is still

a large amount of money due him upon his said contracts made for said repairs. And further this affiant saith not.

JOHN MILEY.

Sworn to and subscribed before me, this 4th day of April, 1853.

[SEAL.] Y. A. NESMITH.
Notary Public.

The respondents also file several affidavits in resistance of the motion* of complainants for an injunction, and for the appointment of a receiver, to be read on the hearing of the motion, and day is given.

And afterwards, to wit, on the eleventh judicial day of the same May Term of said Circuit Court, present the same judges as first above said.

The parties now come, and the complainant, by his solicitors, moves the Court to appoint a receiver in pursuance of the prayer of the complainant's bill; which motion the Court, after argument of counsel, overrule. And thereupon the complainant moves the Court for leave to amend his bill in this behalf, which motion the Court sustain, at the costs of the complainant, of the amendment, and proceedings subsequent to the filing of the bill, and the service of process.

And thereupon the complainant files his bill as amended; which amended bill is in the words and figures following, to wit. (See page 13.)

And thereupon this suit is continued to the August Rules of this Court. At which time, on motion of complainants, the defendants are ruled to plead, answer, or demurrer to the bill as amended.

And the respondents have leave to and now withdraw their answer, exhibits and affidavits heretofore filed.

And afterwards, to wit, at the August Rules of said Court, to wit, the (6th) sixth day of August, eighteen hundred and fifty-five, the respondents come, by their solicitors, and file their answer to the amendment of the complainant to his original bill, in these words, to wit:

STATE OF INDIANA, SS.

Before the Honorable Judges of the Circuit Court of the United States for the District of Indiana:—

The answer of the White Water Valley Canal Company to the amended bill of complaint of Henry Vallette *et als.*, taken under the common seal of s'd Corporation, as his s'd seal hereunto affixed appears.

This defendant, for answer unto so much of s'd amended bill as she is advised is material to be answered unto, answering, says, that the s'd Company at different times during the years 1843 and 1844, made application for a loan: in 1843, for a loan of $100,000, and

in 1844, for a loan of $50,000, and had bonds prepared therefor, and offered the same in market. Among others, application was made to s'd Vallette in June, 1844, who was then engaged in the business of a broker in the city of Cincinnati, and never had been engaged in and had no acquaintance with the business of a contractor on works of public improvement, and was unable, from any knowledge or information of his own, to form any opinion of the cost or value of such work, either in the aggregate or detail. That by agreement of s'd Vallette, he met the Board of Directors on the 2d July, 1844, at the office of s'd Company in Connersville, to give his answer to their application for a loan as aforesaid. The loan the Company desired to make was to be applied to certain unfinished portions of s'd canal specified in a certain proposition made by s'd Vallette to s'd Board of Directors, a copy whereof is filed with the former answer of this defendant in this cause, and marked Exhibit A therein, and to which reference is here made.

And in which proposition s'd Vallette offers to complete s'd unfinished portions of s'd canal for $125,000 in the bonds of the company. This sum was adopted as a basis of calculation between the parties, not named as a sum to be paid for work, but as a sum which it was decided would cover the cost of the work and give 100 per centum thereon, and was arrived at from an estimate of the supposed amount of work and the cost thereof made by the engineer of the company, which was exhibited to s'd Vallette in order to determine the sum to be named in s'd proposition, which would give 100 per cent. in the cost of s'd work. The proposition having been accepted, it was suggested by one of the directors that a further contract should be entered into showing the specific prices for the different kinds of work embraced in s'd proposition, and this being assented to the contract specified in defendant's former answer in this cause, and marked Exhibit *B* therein, and to which reference is here made, was drawn up and entered into between the s'd Vallette and the company; wherein certain prices were fixed for certain kinds of work, and which were put at a rate to produce 100 per cent. in the bonds of the company on the cost thereof. The company has no estimate of the amount of work embraced in s'd contract, but the amount paid out thereon did not exceed $56,000,00. That in all other contracts made by the President and Directors, or by s'd company, for work on s'd canal, a public letting was first had, and proposals were received from all who saw fit to bid, and the s'd Directors, other things being equal, awarded s'd work to the lowest bidder. The bids were required to specify the prices for the different kinds of work proposed to be done or embraced on a given portion of the canal, and no person bidding was suffered to see or be informed of the estimates of the supposed cost thereof as made out by the engineer of the company, and as a general thing the s'd bids were below the s'd estimates.

Further answering s'd defendant says, that she set forth in her former answer in this cause, a certain contract was entered into be-

tween the President of s'd company, M. Helm, and s'd Vallette, and which contract was set forth by copy thereof attached to s'd former answer and marked *B*, and that she then charged and does now charge the fact to be, that said contract was fraudulent and unconsciable in its terms and prices for the work agreed to be done, and was entered into on the part of the contracting parties thereto illegally and in fraud of the rights of the stockholders of said company, and was used merely as a shift, a device to cover up the usury which existed in s'd transaction. And the s'd respondent says, that the s'd prices named in s'd contract were understood and admitted to be 100 per cent. above what the said work could be done for agreeably to the opinion of the engineer of the company, and the said contract was so entered into merely as a shift and device to cover up the usury which existed in the loan thus made to the said company. That on or about the time said contract was entered into, the s'd Valette spoke of the transaction as a loan, and that he has at various times since then spoken of it as a loan to said company.

Your respondent further answering says, that she is informed and believes, and so charges the fact to be, that the said Henry Vallette did loan to the White Water Valley Canal Company as set forth in their answer to the original bill of complaint in this cause about the sum of $56,000 00; but that the said Vallette and President and Directors of said company, well knowing it to be illegal and usurious to take or give more than six per centum per annum interest by the laws of the State of Indiana and the charter of said company, for any loan which they might make, and also well knowing that the security granted to all loans made by the authority of the 18th section of said charter could not be given to loans of any other character; they, said Vallette and the President and Directors of said company, conspired together to see in what manner they could so arrange this loan that the s'd Vallette might receive 100 per cent. upon the money actually advanced by him, and at the same time obtain the security granted by the 18th section of the charter in an apparently legal form; and thereupon the plan of taking a contract at prices 100 per cent. above the estimates of the engineer of s'd company, and receiving his pay in the bonds of the company at their par value drawing 7 per cent. interest, payable semi-annually in New York, and conveying with them the security contemplated by the 18th section of s'd charter, was agreed upon and carried out by the said Vallette and President and Directors; and thereupon the said Vallette, retaining in his own hands said money for his own security and in order to be sure that the same should be applied to the said unfinished portion of said canal, did loan to said company, by paying it out upon said work, about the sum of $56,000 00, and received therefor from the company one hundred and twelve of their bonds issued and made payable to said Vallette for the sum of $1,000 00, each bearing interest at the rate of 7 per cent. payable semi-annually in New York. The s'd Vallette thus receiving for about the sum of

$56,000 00, thus loaned $112,000 in the bonds of the company. And your respondent charges that this whole transaction was illegal and usurious according to the laws of the State of Indiana and the charter of said company, and that said contract was used as a cover, shift, or device to hide its usury and illegality, and that the said President and Directors had no authority under the charter of said company to enter into and make such a contract, and that their acts in that behalf were in fraud of the law and the rights of the stockholders of said company.

Your respondent further answering says, that the said contract entered into between the said Vallette and the president and directors of said company, aside from its illegality on the ground of usury, is fraudulently and grossly inequitable on account of the erroneous prices agreed to be paid for the work as set forth in s'd contract, said prices being an average 100 per cent. above the estimated cost of s'd work by the engineer of the company, and fully that sum above what said work cost.

And your respondent charges that in making said contract the said Vallette took advantage of the necessities of said company, and fraudulently prevailed upon the president and directors thereof to enter into said contract.

And your respondent now prays that full relief may be granted to her in the premises, and that an account may be taken and balance struck between all the complainants in this cause and your respondent according to the claim set forth by your respondent in their answer to the original bills of complaint filed in this cause, and also in accordance with the facts herein shown; and the respondent further prays, that all of said bonds may be decreed to be given up and cancelled, and a decree rendered in favor of your respondent for the balance found to be due her, and also for such other and further relief as may seem just and equitable in the premises.

[SEAL] A. B. CONWELL.

Attest:
W. E. LAURENCE,
Sec'y.

And, thereupon, on motion of the respondents, a rule is granted against the complainant to file his replication or exceptions to the answer of the respondents, on the first Monday of September next, the next rule of this Court.

SMITH, FAY, & McLEAN.

August 6, 1855.

And afterwards, to wit, at the September rules of said Court for 1855, come the respondents, by their solicitors, and the complainant not having filed his exceptions or replication in discharge of the rule

taken against him at the last rule day, the default is on motion of the respondent entered against the plaintiff.

SMITH, McLEAN & FAY,
for Defendants.

September 7, 1855.

And afterwards, to wit, on the 26th day of September, in the year eighteen hundred and fifty-five, the defendants, by counsel, file in the clerk's office of said Court the following, to wit:—

The counsel for the defendants show cause against hearing the motion of the complaint for an injunction, and the appointment of a receiver, upon the following grounds and causes:—

1st the District Judge has no power to grant an injunction in this cause.

2d. The same motion has once been heard and overruled in the Circuit Court in term, by a full bench.

3d. The bill was filed in open Court as amended, and the complainant was bound to make his motion, if he relied upon new matter.

4th. The answer is filed, and a default at rules for want of a replication, and no affidavits can be read, the case must be tried by legal evidence in Court.

5th. The right to appoint a receiver is confined to a *Court*, and not a judge in vacation, by the contract.

SMITH, McLEAN & FAY,
for Respondents.

And on the same 26th day of September, eighteen hundred and fifty-five, the complainant, by his counsel, files in the clerk's office aforesaid, the following, to wit:—

The complainant asks the Court to grant an injunction restraining the defendant from misappropriating the funds of the company as prayed for in the bill.

The complainant also asks the Court to appoint a receiver in the cause, to take charge of the assets and of the property of the defendants.

CHARLES FOX,
Atty. for complainant in conjunction with
SAR. JUDAH.

And afterwards, to wit, on the 27th day of September, in the year eighteen hundred and fifty-five, the complainants file the following replication, to wit:—

And the complainant comes, and for replication, says he will prove the facts set forth in his bill and amended bill to be true, and that the facts set forth in the answer and amended answer of the defend-

ant are untrue, and insufficient to bar or preclude him from the relief prayed for in his said bill and amended bill.

SAML. JUDAH,
CHARLES FOX,
Sols. for Complt.

And afterwards, to wit, at a Circuit Court of the United States, for the said District of Indiana, holden at Indianapolis, on the 21st day of November, in the year of our Lord, eighteen hundred and fifty-five.

Present, the Honorable E. M. Huntington, judge of said Court.

The respondent, by her solicitors, now comes and moves the court for leave to take the depositions of Philip Dater, Thomas M. Hooker, John Howland, and Woodward Haven, residents of the State of New York, co-plaintiffs with said Henry Vallette, to be read in evidence against the said Henry Vallette, their co-plaintiff, on the hearing of the above suit, and day thereof is given.

And afterwards, to wit, on the (22d) twenty-second day of November, in the year of our Lord eighteen hundred and fifty-five.

Present, the same judge as aforesaid.

Come the parties, by their counsel, and thereupon the defendants file their affidavit in support of the motion in these words, to wit:—

Personally came into open Court, on this 22d day of November, 1855, Abraham Conwell, President of the said canal company, and after being duly sworn, upon his oath says that the said Philip Dater, Thomas M. Hooker, John Howland, Woodward Haven, who have been made complainants with said Henry Vallette, by consolidation of the complaints of said Henry Vallette, and the said Philip Dater, Thomas M. Hooker, John Howland, Woodward Haven, have no interest whatever in favor of said respondents, as he is informed and verily believes; and that he is informed and believes that said Philip Dater, Thomas M. Hooker, John Howland, and Woodward Haven, are material witnesses for said respondent against said Henry Vallette.

A. B. CONWELL,
P.

Sworn and subscribed in open Court, November, 22d, 1855.

HORACE BASSETT,
Clerk.

And after argument, the Court give the parties further day to hear their judgment thereon.

And now come the complainants, and upon the following affidavits, to wit:—

CIRCUIT COURT U. S. IND. DIST.
Nov. Term, 1855.

VALLETTE AND OTHERS
vs.
THE WHITE WATER VALLEY CANAL CO.

Saml. Judah, being sworn, says that he is the original counsel of the complainant, Vallette, and is also one of the counsel of the other complainants; that he resides in Vincennes, and the defendent's counsel knew it; that, at the last term of this Court, the time for answer was enlarged to August, at the request of the defendant's counsel, on his pledge to file a substantial answer on the merits, with the understanding also that each party would prepare for trial at this term. Affiant further says that he employed, and in part paid, as will appear by the attached receipt, J. W. Gordon, Esq., an attorney of this Court, resident at Indianapolis, to appear for him at the rules in the clerk's office, and in this particular case, for the purpose of taking all necessary measures therein; that Mr. Gordon did not so appear at the September rules, and that affiant is informed and believes that he so failed in consequence of sickness, &c.

Affiant further says that afterwards, on the 27th day of September last, a replication to said answer of defendants, at the August rules filed, was actually filed in the clerk's office, and that at that time and from thenceforth, and before that time, in all the month of September, the defendants had full notice from the proceedings of the complainant, Vallette, of his intention to prosecute this suit.

SAML. JUDAH.

Sworn in open Court, Nov. 22, 1855.

H. BASSETT,
Clerk.

Whereupon the complainants pray that the said replication now on file in the above named case may be now entered as filed on the 1st Monday of September last.

SAML. JUDAH,
for Compts.

J. W. Gordon's Receipt.

Received of Saml. Judah ten dollars, part of twenty-five dollars, balance to be paid on request, as a compensation for attending to the rules in the Circuit Court U. S., Ind. Dist., for Mr. Judah, in case of his absence, reserving liberty to take fee from defendants if offered, in the case Vallette *vs.* the White Water Valley Canal Co.

Jany. 30, 1855.

J. W. GORDON.

move the Court for leave to file their replication *nunc pro tunc* as of the first day of September last.

And the defendants appear to said motion and object to the same, on the ground that the plaintiffs did file their replication, on the (27th) twenty-seventh day of September, as appears by the rule docket, at which time the issue was made up, and the defendants have three months from that time to take depositions in this suit. And the Court give the parties further day to hear their argument thereon.

The plaintiffs now move the Court to grant an injunction, and appointed a receiver agreeably to the prayer of the bill. Whereupon the defendants, by their counsel, object to the hearing of said motion during the present term of the Court, on the ground that the same question was heard at the last term of the Court, and depositions are being taken. Those of the plaintiff having only been taken and returned to the Court: Whereupon the question of the last named motion, as to whether the Court will hear the same until all the depositions are taken, is postponed for argument, and day is given.

And afterwards, to wit, on the (23d) twenty-third day of November, eighteen hundred and fifty-five, that being the (5th) fifth judicial day of said term of said Court for the year 1855, present the same judges as last aforesaid—

The parties again come, and the Court being sufficiently advised, overrule the motion of the defendants to examine and take the depositions of said co-plaintiffs as witnesses in behalf of said defendants.

And the Court being advised of the question on the motion for an injunction, and receivers are of the opinion that said motion ought to be heard during the present term of the Court. And thereupon by argument of the parties, the Court fixed upon Tuesday, the (4th) fourth day of December next to hear said motion.

And the Court being sufficiently advised, overrule the motion of complainants to file their replication *nunc pro tunc*, as of the first day of September last, and day is given.

And afterwards, to wit, on the said (4th) fourth day of December, as aforesaid, present, the same judge as aforesaid—

Come the parties, and after hearing a part of the evidence, the Court give further day, and on the (5th) fifth day of December, eighteen hundred and fifty-five, that being the 14th judicial day of said term of said Court for the year 1855, present, the same judge as aforesaid—

Come the parties, and the complainant files the following affidavit, to wit:—

Henry Vallette being duly sworn, deposes and says, that soon after suspension of navigation on the Whitewater Valley Canal, in consequence of the great flood in December, 1852, which done much damage to said canal, Joseph Torrence and G. Y. Roots, came together to the dwelling-house of this deponent on an evening, and requested this deponent to waive a lien which this deponent then held on the revenues of said canal, for the payment of the interest

and principle of some eighty-six thousand dollars of the bonds of said canal company, issued to this deponent by said canal company. That this deponent *then and there refused to waive his lien as then requested* in favor of any one, and informed said Torrence & Roots, that he had written that day to said canal company to that effect, but this deponent agreed to extend all the interest due on the bonds held by this deponent as aforesaid, in the month of August, then ensuing, for six months. That he gave said Roots and Torrence a memorandum to that effect, and informed said Roots and Torrence at the same time, that he had sent a copy of the same memorandum of agreement to the office of the said canal company in Connersville, in reply to an application from said canal company to said Vallette, to waive his lien on said canal for the payment of the interest and principle due this deponent on the bonds of said canal company.

The deponent further states, that after said memorandum of agreement was given by him to said Torrenee and Roots, they used many arguments to induce this deponent to give further extensions of time for the collection of his debts against said canal company, but this deponent refused to make any further stipulation or agreement with said Torrence and Roots, than was contained in the written agreement aforesaid, a copy of which is contained in the affidavits of said Torrence and Roots, which has been read in this cause. Said Torrence and Roots then said to this deponent, that they would subscribe to a loan to be made to said canal company for the purpose of repairing said canal.

Provided, this deponent would waive his lien on the revenues of said canal as aforesaid, but this deponent refused to waive his lien notwithstanding, and all that is stated in the affidavits as aforesaid of said Torrence and Roots, is untrue, which alleges that said Torrence and Roots, when induced to subscribe to said loan to said canal as aforesaid, by any *agreement or proviso* on the part of this deponent to waive his lien on said canal, further than was stipulated in said written agreement as aforesaid.

This deponent further states that said Joseph Torrence, whose affidavit has been read in this cause as aforesaid, is a partner in the firm of C. W. West & Co., which firm own extensive mill property in Cincinnati, and that said mills depend on the White-water Valley Canal for water power to run said mill.

That said mill property was valueless *as mill property* until said White-water Valley Canal was repaired. This deponent further states that it is his belief that said Torrence, or the firm of C. West & Co. subscribed the sum of fifteen hundred dollars to aid in repairing said canal, only because he wanted to restore the water power furnished by the said W. V. Canal to run the mill belonging to said C. West & Co., of which firm said Torrence is a partner.

That said water power, in a large city like Cincinnati, is exceed-

ingly valuable, and fifteen hundred dollars ($1,500) was a small matter compared to the loss of said water power.

This deponent further states that the said G. Y. Roots, whose affidavit has also been read in this cause, is a partner of the mercantile house of Roots & Co., whose place of business is on the basin of the White-water Canal, in Cincinnati. This deponent further says, that at the time said canal was broken, in December of 1852, said Roots & Co. were doing a very large business in Cincinnati, with merchants on the line of said canal, in the towns of Brookville, Harrison, Metamora, Laurell, Connersville and Cambridge, and other towns near to said W. V. Canal.

That the retention of this business by Roots & Coe was almost entirely dependent on the said W. V. Canal being speedily repaired, which was one of the principal reasons that said Roots subscribed, on the part of the firm of Roots & Coe, some 3,000 dollars, to aid in repairing said W. V. Canal, as this deponent verily believes.

This deponent further states that he has been informed and believes, that when said W. V. Canal was damaged, in December, 1852, that said Roots & Coe had made large advances in money to pork packers and millers in towns along the line of said W. V. Canal. This deponent further states that the pre-payment of said advances in money to the said Roots & Coe would have been put in jeopardy, had not said canal have been speedily repaired; and this deponent further states, that it was for these reasons, as aforesaid, and not because of any promises made by this deponent that said Roots or Roots & Coe advanced 3,000 dollars to aid in repairing said W. V. Canal.

This deponent further states that John —— Miley, whose affidavit has been read in this cause, states what is untrue when he says that he was induced to take a contract to do work to the amount of thirty thousand dollars, in repairing said W. V. Canal, *because* of a promise from the deponent that he would waive his lien on the revenues of said canal.

This deponent never told said affiant Milley to take a contract and do work for said canal company; but on the contrary this deponent, when requested by said Milley to waive his lien on the revenues of said canal, refused to do so, and told said Milley that the interest on the deponent's bond was only about (6,000 dollars) per annum, and was a small matter when the canal was in repair, if the tolls and income of said canal continued to be as good as they had been for two years previous to the damage said canal had sustained by the flood of December, 1852.

This deponent further states that he was never consulted by said Miley about any contract with said W. V. Canal Company, and never knew that said Milley had taken a contract to do work for said W. V. Canal Company until after said canal was fully repaired.

This deponent further states that he has been *recently* informed by Wills E. Laurence, the sec'y of the W. V. Canal Co., that said affiant Milley did take a contract to build the dam across the Whitewater

River at Harrison, and to do other work rendered necessary to restore navigation in said W. V. Canal, after the injury it sustained from the flood, in December, 1852. Said Wells E. Laurence, sec'y of said W. V. Canal Company, further informed this deponent that the work done by the aforesaid affiant Milley amounted to some (30,000 dollars) *thirty-thousand dollars*, all of which had been paid to said affiant Milley by said W. Valley Canal Company, except about one thousand dollars, for which the said W. V. Canal Comp'y had an offset against said Milley for water rents, or water power furnished to said Milley Mills in Harrison, by said W. V. Canal Company.

This deponent further states that the affidavit of Richard Calvin, which was read in this cause, stating that the deponent, in conversation, in 1847, told said affiant then and afterwards, that this deponent wanted the revenues of the W. V. Canal to be used to pay the demands for labor done on said canal at that time and afterwards —THAT IS, IN 1847.

This deponent further states that the conversation with said Calvin by this deponent, relative to revenues of said W. V. Canal, at that time, on which this deponent then had a claim for large arrearages of interest due on his bond, given to him by the canal company, and to secure and enforce the payment of said claims to this deponent from said W. V. Company, this deponent applied to the Circuit Court of the U. S., in chambers, in Sept., 1847, for an injunction and receiver, which was granted, and the particulars of which, as fully described in vol. 4th of *McLean's Reports*, where it will be found that this deponent voluntarily proposed to the Court to accept of one-fourth of the incomes of said canal, and allow the other three-fourths to be used or applied to pay contractors which had been employed by said W. V. Canal Company in repairing the canal.

This compromise continued with said W. V. Canal Co., until this deponent was paid in full for his demands against said Canal Company, at that time or until about 1849 or 1850. This deponent further states, that the conversation testified to by the affiant Calvin, as having occurred with this deponent, by which this deponent agreed that Calvin should be paid for which had been done on said canal in preference to this deponent's claim—related only to work which had been done on the canal previous to this deponent's having obtained an injunction and receiver in 1847, and also related only to this deponent's agreeing not to demand more than one-fourth of the incomes of said canal, until this deponent should be paid the amount then due this deponent from said W. V. Canal Company, and allowing the other three-fourths to be applied as aforesaid.

This deponent further states, that when the canal was broken by the flood which occurred in December, 1852, that the President of said Company, A. B. Conwell and West, partner of the affiant Torrence aforesaid, went into a large speculation by purchasing up the stock and debts of said W. V. Canal Company at very low prices, that said Conwell & West are, at this time, the largest among the

holders of the stock and debts of said W. V. Canal Company, which they have purchased for a very trifling sum on the par value of said stock and debts of said Canal Company. This deponent further states, that if said Canal Company can succeed in destroying the *lien* or claim of this deponent against said Canal Company, that said stock and debts owned by said Conwell and West will be much increased in value. This deponent further states, that said Conwell and West are both at this time Directors of said Canal Company, and said Conwell is the President thereof.

HENRY VALLETTE.

Sworn and subscribed to in open court, this 5th Dec., 1855.

H. BASSITT,
Clerk.

And said cause was continued for argument from day to day until the (18th) eighteenth judicial day of the same November term of said Court for 1855.

The parties by their counsel come, and the Court being sufficiently advised in the premises, order that George Holland, Esquire, be, and he is hereby appointed receiver of the tolls, water rents and other income of the said White Water Valley Canal Company, with power to appoint agents to collect the same.

2d. That the books of said company, so far as may be necessary to carry into effect this order, be handed over to said receiver.

3d. That the money so collected be applied first, to maintaining the canal, and the payment of salaries, and necessary expenses of its management.

4th. The residue, after paying the necessary expenses of maintaining and managing the canal, to be paid into Court on the first day of the next term, at which time said receiver is to make full report of all matters connected with execution of his trust.

The defendant is enjoined from collecting any further tolls, water rents or other dues of said company until the further determination of this cause, or in any way interfering with the due execution of this order as from changing existing rate of tolls.

The receiver hereby appointed, will execute his bond for the faithful execution of his trust in the sum of thirty thousand dollars payable to the complainants, for the use of themselves and all parties in interests.

Said receiver shall also, before entering on his duties, take an oath faithfully to discharge his duties as such receiver. The defendant is hereby further directed to transfer to said receiver all tolls, boats, materials on hand for the repair or use of the canal, and all property of whatever nature, to the end that said property may be applied for the purposes for which they are intended.

And thereupon, this suit is continued until the next term of this Court; and the time for taking depositions is extended ninety days

from and after the expiration of the time allowed under the rules of the Court.

And on the twenty-fifth judicial day of the same term of said Court as aforesaid. Come now George Holland, heretofore appointed Receiver in this case, and in open court, filed the following bond, to wit:

Know all men by these presents, that we, George Holland, Mason W. Haile, John W. Hitt, Abner McCarty, and John G. Adair, of the county of Franklin, and State of Indiana, are held and firmly bound unto Henry Vallette, for his use, and of such other persons as may have an interest in the matter, in the penal sum of thirty thousand dollars, which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 15th day of December, A. D. 1855.

The condition of the above obligation is such, that whereas the above bound George Holland has been appointed receiver in the above named case by the Circuit Court of the United States for the District of Indiana, and required to execute a bond as such: Now should the said George Holland, well, truly, and faithfully perform and discharge all his duties as such receiver in the premises, take care of and keep all such property and effects which may come into his hands as such receiver, safely keep account for and pay over to the proper person or persons, authorized to receive the same, all moneys which may come into his hands by virtue of his said appointment, and well and truly abide by and perform all the orders of said Court in the premises, then this obligation to be void, else to be and remain in full force and virtue.

GEO. HOLLAND, [SEAL.]
ABNER McCARTY, [SEAL.]
M. W. HAILE, [SEAL.]
JOHN W. HITT, [SEAL.]
JOHN G. ADAIR. [SEAL.]

Attest:
C. B. BENTLEY.

I, C. B. Bentley, Postmaster at Brookville, Ind., do certify that the above securities are ample.

C. B. BENTLEY.

Dec'r 15, 1855.

Which bond is accepted and approved by the Court.

And afterwards, to wit, at a Circuit Court of the United States begun and holden at Indianapolis, in said District of Indiana, before the Honorable John McLean, one of the Associate Justices of the Supreme Court of the United States, and the Honorable Elisha M. Huntington, District Judge of said District, on the 3d third day of

June, eighteen hundred and fifty-six, that being the 14th fourteenth judicial day of the May term of said Court for 1856, come the parties in the above entitled suit, by their solicitors, and on motion of defendants this cause is continued until the next term, at the costs of the defendants.

And on the fifteenth judicial day of the same term as last aforesaid, present the Honorable M. Huntington, judge as aforesaid.

On motion of complainant on coming in of receiver's report it is ordered, that the receiver do not allow any salary to the secretary of the company from the time notice was given him by the receiver that his services as such were not required. It is further ordered that the receiver be authorized to commence suits against every and all parties who are or may become indebted to the White Water Valley Canal Company for water rents, and to exercise all such powers as to shutting off the water where the rents are not duly paid, as the said company could have exercised had not the receivers been appointed. It is further ordered, that the receiver pay to the officers of this Court, out of the funds in his hands, the amount of costs now due. It is further ordered, that the receiver be also authorized to discharge as well as to appoint agents, and liberty is given to the parties to file exceptions to the receiver's report for three months.

And afterwards, to wit, at a Circuit Court of the United States, begun and holden at Indianapolis, in said District, on the 23d twenty-third day of December, eighteen hundred and fifty-six, that being the 24th twenty-fourth judicial day of the November term of said Court for eighteen hundred and fifty-six.

And after hearing the evidence and argument of counsel (on the pleadings in this case heretofore filed), the same was continued until the 27th twenty-seventh judicial day of said November term aforesaid, present the same judge as last aforesaid:

When the parties come, and the respondents, by their counsel, now move the Court to order the receiver to pay to the counsel of the respondents, out of the funds in his hands, reasonable fees for their services to the respondents in defending his suit, on the ground that the whole available means of the company have been placed in the hands of the receiver, and the Court not being sufficiently advised take further time thereon.

And after hearing the further argument of counsel, the Court take the same under advisement until the next term of this Court, and afterwards, to wit, at a Circuit Court of the United States for the seventh Circuit and District of Indiana, begun and holden at Indianapolis, on the fifth day of June, eighteen hundred and fifty-seven, present the Honorable John McLean, Judge of said Circuit, and the Honorable Elisha M. Huntington, Judge of said District.

That being the seventeenth judicial day of said May term, for the year 1857.

At this time come the complainants by their counsel, Henry Hanna, Abraham B. Conwell, and Lafayette Conwell, traders, under the firm

of A. B. Conwell & Son, and Charles W. West and Joseph Torrence, traders, under the firm of C. W. West & Co., by the consent of the complainants and defendant, appear by their counsel, and the defendant comes by its counsel, and the Court being fully advised in the premises, it is ordered that John H. Rea, Esq., Commissioner of this Court, compute and report to this Court the amounts respectively due to the complainants for the principal and interest of the bonds and coupons in the bill and amended bill mentioned, and for interest on the said coupons at the rate of seven per cent. per annum; and further, that in pursuance of the admissions of the parties herein that he compute and report the amounts respectively due for principal and like interest on certain coupons detached from said bonds and now held as follows: By Henry Vallette 56 coupons, Conwell & Son 57 coupons, and West & Co. 57 coupons, being 29 coupons due 1st August, 1853, and 28 coupons due 1st Feb., 1854, each for $35 00.

And said commissioner reports as follows:—

CIRCUIT COURT OF THE UNITED STATES,
Indiana District, at May term, 1857.

HENRY VALLETTE *et al.*
vs.
THE WHITE WATER VALLEY CANAL COMPANY.

Master's Report. Chancery.

To the Honorable the Judges of said Court.

John H. Rea, Master in Chancery, in pursuance of the order submits the following report:—

To Henry Vallette there is due for bonds, coupons on same, and interest, as follows:—

86 bonds $1,000 each, 1st Feb'y, 1853,	$86,000 00
7 per ct. interest on same to May 28th, 1857, from Feb'y 1st, 1853,	14,126 13
86 coupons due August 1st, 1854, $35 each,	3,010 00
7 per ct. inst. on same to May 28, 1857, from August 1st, 1854,	610 94
86 coupons due Feb'y 1st, 1855, $35 each,	3,010 00
7 per ct. interest from Feb'y 1st, '55, to May 28, 1857,	488 00
	$107,245 07

To Philip Dater there is due for bonds, coupons on same, and interest as follows:—

Bonds Nos. 13, 14, 15, 16, 17, 18, 22, and 40,		$8,000 00
8 coupons due Feb'y 1st, 1853, $35 each,	$280 00	
7 per ct. interest from Feb'y 1st, '50, to May 28, 1857,	84 77	
		364 77

8 coupons due August 1st, 1853, $35 ea.,	280 00	
7 per ct. interest to May 28, 1857,	74 97	
		354 97
8 coupons due Feb'y 1st. 1854, $35 each,	280 00	
7 per ct. interest to May 28, 1857,	65 17	
		345 17
8 coupons due August 1st, 1854, $35 each,	280 00	
7 per ct. interest to May 28, 1857,	55 37	
		335 37
8 coupons due Feb'y 1st, 1853, $35 each,	280 00	
7 per ct. interest to May 28, 1857,	45 57	
		325 57
7 per ct. interest on $8,000, from Feb'y 1st, '55, to May 28, 1857,		1,303 00
		$11,028 85

To Woodward Haven there is due for bonds, coupons on same, and interest, as follows:—

6 bonds Nos. 26, 27, 32, 33, 34, 35,		$6,000 00
7 per ct. interest $6,000 00, Feb'y 1st, 1855, to May 28, 1857,		976 46
6 coupons due Feb'y 1st, 1853, $35 each,	$210 00	
7 per ct. interest to May 27, 1857,	63 57	
		274 57
6 coupons due August 1st, 1853, $35 ea.,	210 00	
7 per cent inst. to May 27, 1857,	56 22	
		266 22
6 coupons due Feb'y 1st, 1854,	210 00	
7 per ct. inst. to May 27, 1857,	48 87	
		258 87
6 coupons due August 1st, 1854,	210 00	
7 per ct. interest to May 27, 1857,	34 17	
		244 17
		$8,271 81

To John Howland there is due for bonds, coupons on same, and interest, as follows:—

6 bonds, Nos. 24, 25, 48, 52, 53, 54,		$6,000 00
7 per ct. interest from Feb'y 1st, 1853, to May 28, 1857,		976 46
6 coupons due Feb'y 1st, 1855, $35 each,	210 00	
7 per ct. interest to May 28, 1857,	34 17	
		244 17
		$7,220 53

To Thomas M. Hooker, there is due for bonds, coupons on same, and interest, as follows:—

6 bonds Nos. 64, 65, 67, 69, 77, 78,		$6,000 00
7 per ct. interest from Feb'y 1st, 1853, to May 28, '57,		976 46
6 coupons due Feb'y 1st, 1855, $35 each,	210 00	
7 per ct. interest to May 28, 1857,	34 17	
		244 17
		$7,220 63

To C. West & Co., there is due for coupons on and interest, as follows:—

29 coupons due August 1st, 1853, $35 each,	$1,015 00	
7 per ct. interest to May 28, 1857,	276 76	
		$1,286 76
28 coupons due Feb'y 1st, 1854, $35 ea.,	980 00	
7 per ct. interest to May 28, 1857,	226 81	
		1,206 81
		$2,493 57

To Henry Hanna there is due for coupons and interest as follows:—

28 coupons due August 1, 1853, $35 ea.,	$980 00	
7 per ct. interest from August, 1853, to May 28, '57,	224 81	
		$1,204 81
29 coupons due Feb'y 1st, 1854, $35 each,	1,015 00	
7 per ct. interest to May 28, 1857,	226 81	
		1,241 81
		$2,446 62

To A. B. Conwell & Son there is due for coupons and interest as follows:—

28 coupons due August 1st, 1853, each $35,	$980 00	
7 per ct. interest to May 28, 1857,	224 81	
		$1,204 81
29 coupons due Feb'y 1st, 1854,	1,015 00	
7 per ct. inst. to May 28, 1857,	201 98	
		1,216 98
		$2,421 79

Very respectfully submitted,
JNO. H. REA,
Master in Chancery.

Recapitulation.

Henry Vallette,	$107,245 07
Philip Dater,	11,028 85
Woodward Haven,	8,271 81
John Howland,	7,220 63
Thomas M. Hooker,	7,220 63
C. W. West & Co.,	2,493 57
Henry Hanna,	2,446 62
A. B. Conwell & Son,	2,421 79
Total,	$148,348 97

And said report being examined is approved by the Court.

And thereupon it is ordered, adjudged, and decreed by the Court, that the complainants respectively recover of the defendant as follows, to wit: The said Henry Vallette the sum of $107,245 07, Philip Dater $11,028 85, John Howland $7,220 63, Thomas M. Hooker $7,220 63 Woodward Haven $8,271 81, Henry Hanna $2,446 62, C. W. West & Co. $2,493 57, and A. B. Conwell & Son $2,421 79, and each with interest from this date until paid at the rate of six per cent. per year.

And it is further ordered, adjudged, and decreed, that the complainants and said Hanna, Conwell & Son, and West & Co., are entitled to a lien, as by mortgage on all the estate, property, incomes, and revenues whatever, of the defendant; and are also entitled to receive payment on the said coupons pro rata with priority according to their dates, and on the said bonds pro rata for the amounts to them respectively adjudged from the money collected as hereinafter mentioned.

And it is further ordered, adjudged, and decreed, that George Holland, Esq., is appointed the receiver in this cause; that he have power, and it be his duty forthwith to take into his possession, and to demand and receive, or, if necessary, sue for and recover all the said estate and property, and also all the said incomes and revenues accrued and to accrue of the said defendants, together with all money due to the defendants. That the said receiver have power to regulate the rate of tolls on the said canals as he may judge proper, subject to the approval of the defendant and of this Court; that the said receiver also have power to renew any lease of water power which may expire, or to make leases of unoccupied water power on the usual term or on such terms as he may think proper, subject to the approval of the defendant and of this Court; and also that the said receiver have power to make all expenditures necessary to preserve the said canal in a proper state of repair subject to the approval of this Court. And that the said receiver give bond and security to be approved by the Court or a judge thereof in the sum of $20,000, payable to the Clerk of this Court, and conditioned for the

faithful discharge of duties, and accounting and paying over of all money according to the order of this Court; and it is further ordered, that the said receiver forthwith deposit, in the Branch at Connersville of the Bank of the State of Indiana, all the money now on hand except the sums hereinafter ordered to be paid out by him; and that he also deposit in the said branch all such sums of money as he may hereafter receive, said deposits to be made to his credit as receiver, and subject to the order of himself or successor; and it is further ordered, that the said receiver preserve, on deposit as aforesaid, the sum of two thousand dollars as a permanent fund for repairs of said canal, and that the remains of all money by him received and deposited be subject to distribution to the complainants, and to said Hanna, Conwell & Son, and West & Co., as aforesaid. And it is ordered, that the complainants recover of the defendant their costs about this suit expended, and that the said receiver pay from the money now in his hands the costs of this suit, and also the sum of $500 on account of the def'ts for the fees of their counsel in the defence of their suit.

All of which is ordered, adjudged and decreed by the Court. And thereupon the White Water Valley Canal Company pray an appeal to the Supreme Court of the United States, which is granted by the Court upon the said company giving bond in the penalty of five hundred dollars conditioned according to law, with Abraham Conwell, security, who is approved by the Court. Whereupon the said defendant now files this Appeal Bond, Writ of Error, and citation in these words, to wit:

Bill of Exceptions.

H. VALLETTE and others
vs.
THE WHITE WATER VALLEY CANAL COMPANY.

Be it remembered, that on the hearing and determination of this cause by the Court—the complainants by their counsel objected to the determination and judgment of the Court in this, to wit:—

1st. That the Court refused to decree a sale of the stock of the corporation of the said company.

2d. That the Court refused to declare and establish a lien on the said stock in favor of the complainants.

3d. That the Court refused to decree a sale of the franchises of said company in satisfaction of the said bonds of the comp't.

4th. That the Court allowed to the defendant for fees for their counsel out of the money in the hands of the receiver the sum of $509.

5th. That the Court allowed a priority and preference of payment on the said several coupons.

And the complainant excepted thereto, and prayed the Court that

this their bill of exceptions be signed and sealed and made a part of the record, which is done this 5th day of June, 1857.

E. M. HUNTINGTON, [SEAL.]
[SEAL.]

Writ of Error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America. To the Judges of the Circuit Court of the United States for the Seventh Circuit and District of Indiana.

Because in the record and proceedings, and also in the rendition of the judgment in the said Seventh Circuit and District of Indiana, wherein Henry Vallette is plaintiff and the White Water Valley Canal Company were defendants, manifest error hath happened to the great damage of the said White Water Valley Canal Company as by his complaint appears, and we being willing that the errors if any hath been, should be duly corrected and full and speedy justice be done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States together with this suit, so that you have the same at Washington City on the first Monday in December next in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct the error, what in right, and according to law and custom of the United States should be done.

Witness, Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 5th day of June, 1857, at Indianapolis.

In testimony whereof, I, Horace Bassett, clerk of the said Circuit Court at Indianapolis, have hereunto set my hand and the seal of the said Court.

[SEAL.] H. BASSETT,
Clerk.

Appeal Bond.

Know all men by these presents, that I, Abraham Conwell, am held and firmly bound unto Henry Vallette in the penal sum of five hundred dollars, and to the payment whereof well and truly to be made I bind myself and heirs, administrators and executors firmly by these presents.

Sealed with my seal, and dated this 5th day of June, 1857. The condition of this obligation is such, that whereas the White Water Valley Canal Company, has appealed to the Supreme Court of the United States, from the decree of the Circuit Court of the United

States for the District of Indiana, in a suit in chancery, wherein the said Henry Vallette is complainant, and the said White Water Valley Canal Company are defendants. Now should the said White Water Valley Canal Company well and truly prosecute said writ of error, and pay and satisfy all costs that may be adjudged against them on said appeal and writ of error, then the above obligation to be void, else to be and remain in force.

A. B. CONWELL, [SEAL.]

UNITED STATES OF AMERICA.

To Henry Vallette. You are hereby cited and admonished, to be and appear at a Supreme Court of the United States to be holden at Washington, on the first Monday of December, 1857, in pursuance to a writ of error, filed in the clerk's office of the United States Circuit Court for the Seventh Circuit and District of Indiana, wherein you are defendant in error, to show cause, if any their be, why the judgment and decree in the said writ of error mentioned, wherein the White Water Valley Canal Company are plaintiffs, should not be done to the parties in this behalf.

Witness Hon. Elisha M. Huntington, District Judge of the United States, for the District of Indiana, this 5 day of June, 1857.

E. M. HUNTINGTON.

The above citation served by copy on Samuel Judah, Esq., counsel for the defendant in error, this 6th day of June, 1857.

SAM. JUDAH,
Compl't's Att'y.

Citation.

Filed June 5th, 1857.

H. BASSETT,
Clerk.

Complainant's Depositions.

Depositions of John Crum and others, taken before Nimrod H. Johnston, judge of the Court of Common Pleas for the District of Wayne County, Indiana, in pursuance of the annexed notice and the agreement endorsed thereon (it being agreed between the parties, that said defendant, should waive no objections by signing said endorsed agreement), and at the office of Dr. Johnson in the Conklin building on Main Street, Cambridge City, Wayne County, Indiana, commencing as above specified, on Thursday, October 25th, 1855, between the hours of 8 o'clock A. M. and 6 o'clock P. M. of said day, and to continue from day to day till all are taken, which depositions will be read in evidence on behalf of the plaintiff in a cause now pending in the 7th Circuit Court of the United States for the District

of Indiana, in which said cause Henry Vallette is plaintiff and the White Water Valley Canal Company is the defendant.

And now on the said 25th day of October, 1855, personally came John Crum, of lawful age, who being by me first affirmed according to law, to speak the truth, the whole truth, and nothing but the truth, doth, in answer to questions proposed, depose and affirm as follows:

Question 1. State where you live, how long you have lived where you now do, and where has been your place of business since the year 1842?

Answer. I lived in Cambridge City, Wayne County, Indiana. It is about 19 years since I first commenced living here, but I was absent twice, once for about 18 months, from the fall of 1840 till the spring of 1842, in Henry Co. Ind. and for 3½ years commencing in the latter part of 1847, I resided at the Co. Asylum in this County as superintendent. My place of business, since 1842, has been at Cambridge excepting the time spent at the Asylum.

Ques. 2. State whether you have ever been officially connected with the White Water Valley Canal Company, and if so, in what capacity, when and how long, and whether you was acquainted with the business of the company during the previous period of such official connection?

Ans. I was elected a director of the company at the first election under the charter, and continued so till the completion of the work, and resigned the same fall it was completed. I think during this time I was as well acquainted with business of the company as any of the Directors was. I do not remember that I failed to attend a meeting of the board during the time I was director.

Ques. 3. State what you know, if anything, of a contract having been made between Henry Vallette and the Canal Co., and if so, when said contract was made, what was its character and purpose; whether it was completed; and if so, when; what was the pecuniary condition and credit of the company, when said contract was made; what effect did the making of the contract have upon the credit of the company at the time?

Ans. I know of a contract made between Henry Vallette and the White Water V. Canal Company; it was consummated about July 1st, 1844; it was commenced in June and completed about the first part of July. I believe the paper marked "A" (to be hereto attached) and endorsed with my name, and the name of Miles Murphy, and Benjamin F. Reeve, is a correct copy of the proposition made to the Board of Directors by Henry Vallette. That proposition became the basis of a contract between the parties, from the fact that the proposition contained a suggestion of increasing or diminishing the work; it gave rise to an additional suggestion from Col. Hankins, one of the Board. Let me explain myself. The Company accepted this proposition from Mr. Vallette, and requested the attorney of the Company to draw up a contract, which was accordingly drawn up, embracing the different items of the work, embracing

the unfinished portions of the canal between Connersville and Cambridge City.

Ques. 4. State whether or not suggestions were made by any one of the Board to have the contract drawn different from the proposition; if so, what changes were made?

Answer. In drawing up the contract from this proposition the general items of the work were specified, giving the prices of the different kinds of work. I think the suggestion was first made by Col. Hankins, and sanctioned by myself and other members of the Board, that the contract should embrace the different kinds of work to be done on the unfinished portion of the canal, and the price affixed to each kind of work.

(Def't's counsel objected this question and answer. Johnson, J.)

Ques. 5. State whether or not this paper, marked A A, is a correct copy, embracing the proceedings of the Board in relation to this contract; and whether you know the seal of the W. W. V. Canal Company, and the signature of W. E. Lawrence, Secretary of said Co.

Ans. I believe the paper to be a correct copy of the proceedings of the Board; on it I recognize the seal of said Company, and I believe the signature to be that of W. E. Lawrence.

Ques. 6. State from whom came the first proposition in relation to the contract, or who first introduced the matter.

Ans. The first written proposition came from Mr. Vallette. My first information on that subject was through Mr. Helm, the President of the Board, that they had called on Mr. Vallette, at Cincinnati, and solicited him to come and take the contract. I think the solicitation was on the part of the Company.

(Def't by counsel objects to all that part of foregoing answer that speaks of information derived from Hankins & Helm.)

Ques. 7. State whether or not it was communicated to the Board, in your presence at any time, that Vallette had been called upon, as stated in your answer to question 6.

Ans. It was communicated through the President and Col. Hankins, I think, to the Board.

Ques. 8. State what you know if anything of this contract, having any other character or purpose than that which appears upon its face, as finally executed by the parties.

Ans. I do not know of its having any other character or purpose.

Ques. 9. State if you know anything about said Canal Company trying to make loans of money, of banks or individuals, previous to the making of said contract.

Ans. I am well aware of several efforts having been made. I think the first effort was made by sending Mr. Rariden East to effect a loan; he did not succeed. Some small loans were made at the Richmond Bank, and efforts were made at other banks; they succeeded only to a small extent. If my memory serves me, the call was made on Mr. Vallette at the term that individuals were sent to

Cincinnati to see if loans could be made. I do not mean that at this time a call was made on Mr. Vallette for a loan; I only meant that he was called on at his office and invited up to take the contract on the W. W. V. Canal.

(Def't's counsel objects to witness' statement of the purpose for which Mr. Vallette was called on. Johnston, Judge.)

Ques. 10. State what you know of the W. W. V. Canal Co. trying to effect a loan of money from Henry Vallette before or about the time of making said contract with him.

Ans. I have no knowledge of their trying to effect a loan of him, or of his ever proposing to loan the money.

Ques. 11. State what was the pecuniary condition of said Company; what effect the making of said contract had on the credit of the Company at the time. Had or had not said Co. a circulating medium? What was its market value at the time?

(Def't's counsel objects to the last question on the ground of irrelevancy and illegality. Johnston, J.)

Ans. The company was out of funds. Its credit was in a low condition at the time, inasmuch as it had anticipated its revenue for two or three years. That income consisted of money subscribed; or rather, stock payable in money and real estate. The payment of stock having been anticipated by labor previously done, the company having a large circulation of certificates of stock, called small certificates, of the denomination of 1, 2, and $5, those certificates having depreciated to about the value of 50 or 62½ cents on the dollar; and in some instances they sold as low as 37½ cents per dollar. Those certificates in circulation having depreciated, subscribers of stock purchased them and paid their subscriptions with them.

When this contract was made, it had a tendency to advance the value of those small certificates to a price at which the contractors between Laurel and Connersville were enabled to prosecute their work, and complete that portion belonging to the company between those points. The work between Laurel and Connersville belonged to the company, and had been nearly in a state of suspension for some two or three months, and the directors had been called on two or three times to provide some means of preventing that part of the work from being suspended. I regarded the contract with Vallette then, and do now, as being the only hope the company had of completing the canal, within the next two or three years.

Ques. 12. State whether or not the contract of the Co. with Vallette was regarded favorably or unfavorably at the time it was made by the stockholders generally; and state whether or not you, as an officer of the company, heard objections to that contract after it was made. (Def't's counsel objects to the last question.)

Ans. I think, so far as my knowledge on that subject extends, that a large majority of the stockholders was in favor of the contract being made, and made no objections after it was made. There were certain individuals opposed to it.

Ques. 13. State how the community generally regarded the contract. (Def't's counsel objects to this question. Johnston, Judge.)

Ans. I should think that about nine-tenths regarded it in a very favorable light.

Ques. 14. State what you know, if anything, in reference to the performance of the contract by Vallette.

Ans. The contract of Mr. Vallette was performed by him to the entire satisfaction of the Board of Directors and engineer of the company.

Ques. 15. What do you know in relation to the acceptance of the work from Vallette by the company?

Ans. The company accepted the work from Mr. Vallette, and settled with him for the same, according to the stipulation in the contract.

Ques. State if you know under whose direction Vallette performed the work for the company.

Ans. The work was performed under direction of Henry C. Moore, Chief Engineer of the company.

Ques. 17. State by whom this engineer was employed and paid.

Ans. He was employed and paid by the Board of Directors.

Ques. 18. What do you know, if anything, of objections made by the company to the style and manner of executing the work on the part of Vallette?

Ans. I know of no objections having been made to his manner of executing the work, and I never heard of any till recently.

Ques. 19. State how often estimates were made as the work progressed.

Ans. About every 60 days till the work was near completion.

Ques. 20. State how (if you know) the work was paid for, and at what times.

Ans. It was paid for in the bonds of the company, as estimates were made upon the work, the bonds bearing 7 per cent. interest, payable semi-annually in New York.

Ques. 21. State whether the bonds were signed by the president and secretary of the Co., and if so, by whom, as such president and secretary.

Ans. The bonds were signed by the president, and attested by the secretary. The pres't was M. Helm, and L. B. Tupper was the secretary.

Ques. 22. State what am't of bonds were issued to Vallette and at what periods.

Ans. As the estimates were made, 10 per cent. was deducted, and bonds of $1000 each were issued, sufficient to pay the estimate so deducted; leaving any sum under $1000 to stand over till the next estimate.

Ques. 23. State what you know, if anything, of a surrender of the bonds first issued to Vallette.

Ans. After the work was completed, an order was passed by the

Board, authorizing Vallette to surrender the bonds issued from time to time on estimates; and directing bonds in their stead, to be issued all bearing one date, so as to fix one time for the payment of the semi-annual interest, and the old bonds were so surrendered and new ones issued.

Ques. 24. At what time was the last issue made?

Ans. I think some two or three months after the date of the bonds they were issued. The old bonds were issued at different times, and the date given to the new bonds was selected for the purpose of equalizing the interest on them. I mean on the old ones.

Ques. 25. State if you know what was the gross amount of the bonds last issued.

Ans. I think $112,000 were issued for the purpose of taking up the old ones. Some bonds were afterwards issued for the payment of interest.

Ques. 26. Look at the papers marked D D, numbered 1, 2, 3 and 4, and signed R. G. Heedrick, and state what you know about them.

Ans. I know the handwriting as well as I know that of any persons; the papers and signatures are in the handwriting of L. B. Tupper, Secretary of the Company at the time the papers bear date.

Ques. 27. Who was Directors of the Company at the time the contract was made?

Ans. Meredith Helm, Caleb B. Jackson, Daniel Sinks, Miles Murphey, Benjamin F. Reeves, Solomon Claypool, Col. Mount, Daniel Hankins and myself.

Ques. 28. Are any of these Directors dead, and if so, who are they?

Ans. Solomon Claypool, Daniel Sinks and Caleb B. Jackson are dead, and I have heard that Col. Mount is dead.

Ques. 29. State whether or not you know or have reason to believe that there was device or management between Vallette and the Canal Company to evade the usury laws of the State of Indiana, or to cover up a loan of money from Vallette to the Canal Company in the making of said contract between them.

Ans. I have no knowledge of any means having been used for that purpose. I neither know nor believe that there was any such device or management. I will state that I know that the law of Indiana did not allow the payment of more than 6 per cent. interest on an obligation payable in the State of Indiana, but that I did believe, and it is my opinion that the other members did believe, that 7 per cent. would be legal in the State of New York.

Ques. 30. Had such device or management to cover up usury existed, what were your opportunities for knowing it? (Def't's counsel objects to this question. Johnson, Judge.)

Ans. I suppose my opportunities were equal to that of any other member of the Board except the President. Those things were always done publicly. I had access to the books and papers.

Ques. 31. State what part, if any, was taken by Samuel W. Par-

ker in negotiating between the Canal Company and Henry Vallette. And if any part, state at whose request he acted, and how you regarded him in conducting the negotiations for said contract. (Def't's counsel objects to this question. Johnson, Judge.)

Ans. Mr. Parker drew the papers in the matter. He had long been employed by the Company as the attorney for the Company. He was active in negotiating the contract between the parties. He acted by request of the Company. I never regarded him in any other light than as the friend of the Company, and friendly to its advancement.

Ques. 32. State what, if anything, you know of Mr. Parker in the negotiations for this contract acting as the mutual friend of the Company and Mr. Vallette. (Def't's counsel objects to this question.)

Ans. I believe Mr. Parker to be the true friend of the Company. I have no knowledge of his being employed in any way by Mr. Vallette to officiate for him. He did in this contract as he would in all others, act as the mutual friend of the parties, draw the papers, &c. Acting as the mutual friend of the parties in drawing up contracts, as was usual for him to do.

Ques. 33. State, if you know, who drew the original proposition of Vallette to the Company.

Ans. I believe the first propositions of Mr. Vallette to the Company was drawn by Mr. Parker.

Ques. 34. State what you know, if anything, about the Company having made expenditures to repair the canal previous to the great flood in December, 1852, and if so, as to the sufficiency or insufficiency of such expenditure for that purpose.

Ans. In 1847, the Co. made large repairs on the canal; in 1848, other large repairs were made, and also in 1850 or 1851; further large expenditures were made in repairing the canal. At many places where repairs were made in 1847, repairs were made in 1848 and 1852; consequently, the repairs of 1847 and 1848 were insufficient, for they had to be repaired in 1852.

Ques. 35. State what, if you know, were the specifications under which Vallette performed his contract. (Def't's counsel objects to this question.)

Ans. I believe the pamphlet marked GG. contain the specifications under which he and all the contractors worked, Vallette with the rest of us.

At this point, the further taking of depositions was adjourned till to-morrow morning, October 26th, 1852. N. W. Johnson, Judge.

Friday morning, 9 o'clock and 35 minutes, parties met. H. Vallette and O. P. Morton, Esq., and James A. Fay, Esq., att'y for defendant, and A. B. Conwell, Pres't of W. W. V. Ca. Co., and the pl'tff's examination in chief of John Crum is resumed as follows, viz:

Ques. 36. In answer to Ques. 24, you state that the date was given to the new bonds for the purpose of equalizing the interest on

the old ones; now state the date of the new bonds, and when they were issued, and whether or not the new bonds were given in the final settlement made by the Company with Vallette. (Def't's counsel objects to this question. Johnson, Judge.)

Ans. The new bonds bear date February, 1845, and they were issued, I think, about four months after they bore date, which would make the issue to have been made in the month of June, 1845. I think the new bonds were given to Vallette in the final settlement—I have no doubt of it.

Ques. 37. Who were elected Directors of the Canal Company at the next election after the contract was made with Vallette? (Def't's counsel objects to this question. Johnson, Judge.)

Ans. All who were on the Board when the contract was made were re-elected except Solomon Claypool, who had died in the mean time, and Col. Mount.

Ques. 38. State how Col. Mount voted as to making the contract with Vallette.

(Deft's counsel objects to this question. Johnson, Judge.)

Ans. He voted against making the contract.

Ques. 39. State whether or not the vote of Col. Mount had any thing to do with his defeat when he was a candidate for re-election.

(Deft's counsel objects to this question. Johnson, Judge.)

Ans. I believe the vote was the entire cause of his defeat at the succeeding elections.

The counsel for plaintiff having closed his examination in chief, the counsel for def't asks to have this notice entered, viz: "The defendant, by her counsel, protests to the taking of these depositions under the above notice, and in cross-examining said witness reserves the right to object to the taking of said depositions at this time, to the competency of the officer to take the same, and to make all other objections against the use of said deposition on the submission or trial of this cause authorized by the fact and the law; and said notice is entered over the objection of plaintiff's counsel to such entry, and thereupon deft's counsel proceeds to the

Cross-examination.

Ques. 1. Did the Board of Directors authorize Messrs. Geo. Graham and Griffin Taylor, of Cincinnati, to make loan of $100,000 for the use of the Company, and did they prepare bonds therefor in the sum of $1,000, or each, bearing 6 per cent. interest, payable in advance in New York, the principal being payable in ten years?

(Plaintiff's counsel objects to this question. J., Judge.)

Ans. I think Geo. Graham and others were authorized to make such loan. I think it probable that Griffin Taylor was connected with him I am satisfied that the form was up, and I think a batch of the bonds were finished. A committee, consisting of the President of the Board, of the attorney for the Co., got up the form of the bonds, and Graham, and perhaps Taylor, were authorized to sell

these bonds, and made efforts to do so. I do not distinctly remember the amount they were authorized to obtain. It strikes me that these were $1,000 bonds, bearing 6 per cent. interest. I do not remember the precise feature of the bond in respect to the time the interest was payable. I do not recollect where the bonds were payable, nor when the principal was payable; it is perhaps twelve years since my attention has been called to this matter, and I have no data from which to speak.

(Pltff's counsel objects to this answer.)

Ques. 2. Did Messrs. Graham and Taylor visit New York with a view to effect a loan, and what offers therein did they receive for said bonds?

(Pltff's counsel objects to this question, Johnson, Judge.)

Ans. It is my impression they did visit New York for this purpose, but I do not remember what report they made.

Ques. 3. Did they not report an offer of $0 85 to the dollar for said bonds?

(Pltff's counsel objects to question.)

Ans. I could not speak definitely unless I could have recourse to some of their reports of the matter. I have only a faint recollection of the matter. I do not recollect of any sum reported—85, 60, or 50 cents on the dollar.

Ques. 4. Was the credit of the Company very much depressed in June, 1844, and were the Directors anxious to make a loan, and were applications therefor made to different individuals?

Ans. The credit was very much depressed at the time specified, and the Directors were anxious to effect a loan, and applications to effect such loan were made to different persons; it was so reported by the persons authorized to make the effort.

Ques. 5. How much did the Directors desire to loan, and for what purpose did they desire the loan?

Ans. The best recollection I have is, that they desired to get the amount necessary to complete the work; they wished it in order to enable them to prosecute the work. Do not remember the amount desired.

Ques. 6. Did they want the loan to apply to that part of the canal unfinished between Connersville and Cambridge City?

Ans. I think the loan was desired to complete the unfinished work from Laurel to Cambridge City.

Ques. 7. State what was the business of Vallette, and where he resided at the time this contract was entered into, and whether he had ever been a contractor for building or repairing canals or other public improvements previously, and if so, where, and when; and whether his business had not previously been, and was not at the time and since, a broker or money lender or dealer, and not a contractor?

(Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. He resided at Cincinnati, and I think one part of his business was loan money. He had an office, but I believe I was

never informed of the general business of that office. I do not know that he had previously been a contractor on any public. I do not personally know of his business since except as connected with the canal, and looking after his interest in that. I first saw him on the line of the canal.

Ques. 8. Do you know of his being engaged on any public work before or since the connection with the W. W. V. Canal Co.?

Ans. I do not.

Ques. 9. Were not the terms of Vallette's propositions arranged and agreed upon between him and the board, before the same was up as presented? (Pl't'ff's counsel objects to this question. Johnson, J.)

Ans. My first knowledge in relation to that contract was at a meeting of the Board in the latter part of June, or first of July, 1844. I found Vallette at Connersville, who was engaged with Mr. Moore, the engineer of the Co. Mr. Helm and Mr. Parker examining the profiles and estimates of the work, and being myself a stranger to him, I did not engage in the conversation generally about the contract, and had no knowledge of the Board having consented, or having had any definite action until the proposition was made by Mr. Vallette. The proposition may have been agreed upon by certain members of the Board and Vallette, but I have no knowledge of any such agreement till after the proposition was submitted to the Board.

Ques. 10. Have you had any talk with Mr. Vallette since Question No. 9 was taken down in relation to it, and to your answer thereto?

Ans. Mr. Vallette, and Judge Morton, and I had some conversation after the question was asked, it was principally about other matters; Mr. Vallette made a number of remarks in relation to some testimony on that subject.

Ques. 11. What was the object of the bonus of $500 00, mentioned in the proposition of Vallette, and what effect was it intended to have on the contract?

Answer. My recollection of that subject was this, He had about that amount of small certificates on hand, and said he would give them as a bonus to the company, and that would take that much out of the way of others. That was no great object, as I do not think it caused the contract to be made, or the want of it would have prevented the contract being made.

Ques. 12. In what manner was the sum of $125,000, mentioned in the proposition of Vallette arrived at?

Ans. It was arrived at from estimates and profiles of the engineers.

Ques. 13. Was it understood between the parties, that the bonds to be issued to Vallette, as contemplated in his proposition, were to be secured by a pledge of the canal, and of the property of the company as authorized by section 18 of the charter of the company?

(Pl'tiff's counsel objects on the ground that the witness is no lawyer, and it is irrelevant and illegal, and a matter of law for the courts to decide.)

Ans. I think such was the opinions of the bond, I have no doubt of it myself so far as I am concerned. My understanding was then and is now, that the canal was pledged with all its effects as soon as the bonds were issued.

Ques. 14. Was the proposition of Vallette to complete certain portions of the canal for the sum of $125,000 in the funds of the company accepted with the understanding that this sum would give him 100 per cent., or thereabouts, on his investment, or the amount actually advanced by him on said work? (Pl't'ff's counsel objects to this question. Johnson, J.)

Ans. The proposition when accepted by the Board, was accepted with the understanding that it would give a large margin over and above the cash that would be laid out, that is, if the bonds had been worth their face. It is not my opinion that the Board considered that they were giving Mr. Vallette 100 per cent. on his work.

Ques. 15. By the term "*estimates and profiles of the engineer,*" in your answer to Question No. 121—do you mean the estimates and profiles of the engineer of the company, of that part of the work embraced in Vallette's proposition.

Ans. Yes.

Ques. 16. Did the Board contract with Vallette in the same manner that they let all the other works on that *that* canal to their contractors?

Ans. They signed and made out the same kind of contract with him that they did with all other general contractors.

Ques. 17. Name any individual with whom the Board made any contract for work in the same manner that they did with Vallette?

Ans. I do not know of any person with whom they made a contract in the same manner.

Ques. 18. Did not the Board in every other case give public notice of the proposed letting, and receive sealed proposals, to do the work bid for? (Pl't'ff's counsel objects to this question. Johnson, J.)

Ans. It is my opinion they did not in every case. There were several cases in which work was let without any previous advertisement for that letting.

Ques. 19. Was the work embraced in the proposition of Vallette ever advertised, and was any other work than his ever let without being advertised?

Ans. The whole work had been once advertised at a previous time, but had not been advertised for a letting at the time he took it. By A PREVIOUS TIME, I mean about a year, 18 months' previous, but I wish to be understood that it was not advertised for a letting, at the time it was taken by Mr. Vallette.

Ques. 20. Could not the whole of the work specified in the proposition of Vallette have been let to contractors at less than the

estimate of the engineer, and was not the same thus subsequently let. And how much did the whole cost? (Pl't'ff objects to this question.)

Ans. The whole of the work as specified could have been let for less than the estimate of engineer if the company had had the means of paying for it; but I doubt if the company with its means could have let it for less than they let it to Mr. Vallette. It was subsequently let for less than the engineer's estimate, or in the neighborhood of that estimate. The work cost the company $112,000 in their bonds. I do not know the amount Mr. Vallette paid out.

Quest. 21. State whether the amount paid to Vallette by the company was not 100 per cent. more than the estimated cost of the work; whether the cost of the work was more than the estimate, and if so, how much? (Plaintiff's counsel objects to this question. Johnson, J.)

Ans. I cannot at this time say what the estimates were. It strikes me now after reflection, that the estimate was in the neighborhood of $60,000, it was $60 or $65,000.

Quest. 22. Were not the prices affixed to the various kinds of work in the contract with Vallette arranged on the basis of $125,000 in the bonds of the company being paid for the whole work; and were they not so arranged by the engineer of the company?

Ans. When the contract was consummated the different prices were set out; and that contract was based of course on the original proposition to do the work for $125,000. The prices were arranged by the engineer of company, a committee of the board, and agreed to by the board.

Quest. 23. State whether the board would have made the contract with Vallette if the board had been in funds to do the work done by Vallette, and whether the contract was not made under peculiar pression upon the company for means to do this work, and whether Vallette at the time the contract was entered into, was not fully apprised of the necessities of the company? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. I am satisfied the board would not have made the contract with Vallette if it had had funds to prosecute the work. The contract was made under a peculiar pressure for funds upon the company. My opinion is, that Mr. Vallette was apprised of the necessities of the company.

Quest. 24. Were not the data exhibited to Mr. Vallette, and the representations made therein to him by the engineer of the company by the direction of the board in relation to said work, and the cost thereof, such as to amount to an absolute and positive assurance, that the bonds to be issued to him should not cost him more than 50 cents to the $1 00; and do you believe that without such data and representations, and a confidence in them on his part, he would ever have made said proposition, or entered into said contract? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. Much of the representations were made to him by Mr. Parker, and the engineer of the company, in whom I saw he had full confidence. I know nothing about whether Vallette would have made the contract or not; if he had not thought that he could get the bonds for 50 cents on the $1 00.

Quest. 25. Do you believe that without the representations made to him under the authority of the board, and the data exhibited to him by the same authority, Vallette would have made his proposition, or entered into the contract in relation to said work from your knowledge of the whole transaction? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. I do not believe he would.

Quest. 26. In what respect did the contract mentioned in said proposition differ from the one drawn up and executed between the parties?

Ans. The first proposition was for a gross amount; the contract was for specified prices. The ultimate difference in the sum was about $13,000.

Quest. 27. Was not the estimate of the engineer of the supposed amount of the work embraced in the proposition of Vallette in excess of the true amount to the extent of one-eighth, or thereabouts?

Ans. I do not know; I do not believe it was, yet I do not pretend to know.

Quest. 28. Do you pretend to say that Vallette in this transaction did not calculate to receive, and did he not receive 100 per cent. upon the cash estimate and work done; and do you wish to be understood as saying that Vallette did not consider his advances as money loaned and laid out, and expended for the use of the company in completing that part of the canal, to be refunded with 100 per cent. by the proceeds of the bonds in question? (Objected to on the ground, that it relates to things about which the witness cannot be supposed to know. Johnson, Judge.)

Ans. I do not know what Vallette's calculations were. I do not know the amount which he paid out. Mr. Vallette's has never told me what he considered. I considered that we borrowed his labor, and paid him in the bonds of the company.

Quest. 29. Did the bonds which were to be issued to Vallette by the company, as contemplated in his proposition to the company, differ from those which were issued to him? If so, in what respect?

Ans. I think the principal difference was in the date of them.

Ques. 30. Did the bonds issued to Vallette differ from those prepared for a loan, $100,000 00, except in the amount of the loan, and the rate of interest thereon, as specified in the bond?

Ans. It is impossible for me to say.

Ques. 31. Was the sum of $125,000 mentioned in the bond taken or adopted, from the proposition of Vallette, to complete certain portions of the canal for $125,000?

Ans. I presume that the sum of $125,000 mentioned in the bond grew out of the $125,000 mentioned in Vallette's proposition, and the mention of that sum in the bonds showed that no greater sum than $125,000 was intended to be issued on that loan.

Ques. 32. State under what section of the charter of the company the bonds in question were issued, and attach the section to your answer to this interrogatory.

Ans. Under Section Eighteen (18), which reads as follows: The President and Directors of company, or any agent of theirs, thereunto by them lawfully authorized, shall have full power to negotiate any loan or loans that may be by said company deemed expedient for carrying out any or all of the objects contemplated by this act; and for the payment of such loans, agreeably to the terms agreed upon said company shall bind themselves by their bonds, which bonds, when signed by the President, and attested by the Secretary of the company, and by the company duly ordered to be issued, shall be a valid lien upon all the stock and effects of said company, in the order of their issue, and all the effects of said company, both real and personal, shall be deemed and taken as a pledge for the punctual payment of the interest on said bonds, and the ultimate redemption of the principle, agreeably to contract. (Question and answer objected to by plaintiff's counsel.)

Ques. 33. If these bonds were not issued upon a loan from Vallette, of whom was the loan obtained for which they were issued? (Plaintiff objects to the question.)

Ans. These bonds were issued in lieu of other bonds. No loan of money was obtained to my knowledge.

Ques. 34. If these bonds were not issued upon a loan, by what authority were they issued, and please set out the authority for their issue? (Plaintiff's counsel objects. Johnson, J.)

Ans. We then thought we had authority under the charter to issue the bonds.

Ques. 35. Why did not the Directors receive the amount of the estimated cost of the work, or the amount they desired to loan, and issue to Vallette the bonds (in the form adopted), instead of resorting to the plan adopted? (Plaintiffs objects, Johnson, J.

Ans. They never had any opportunity of doing so.

The further taking of the deposition is now adjourned till to-morrow morning, Saturday, Oct. 27th, 1855.

N. W. JOHNSON,
Judge.

Saturday morning, October 27th, 1855, 9 o'clock and 20 minutes, parties met, same as yesterday, and defendant's counsel proceeds with cross-examination as follows, viz:—

Ques. 36. Did Vallette object to paying the money over to the company and receiving the bonds therefor at once, on the ground that the money might not be applied to the completion of the canal,

and that in such case the security of the bonds would be ineffectual? (Plaintiffs objects to this question on the ground that it assumes a fact not proved and which he says does not exist. Johnson, Judge.)

Ans. I don't know anything of the matters embraced in that question.

Ques. 37. Did the Board entertain the opinion, in the transaction with Vallette, that they were authorized to issue bonds under the 18th section of the charter, and dispose of them at any price they saw proper to accept, and were the bonds in question issued to him under such opinion? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. I believe they did entertain such an opinion. It was my opinion that the bonds were issued to Vallette under such opinion, but I do not remember that it was so expressed, officially, by the Board.

Ques. 38. Was it not understood by the Board that Mr. Vallette preferred the plan adopted by the company in relation to the contract with him, to the payment of the amount of money over to the company they desired for their bonds at 50 cents on the $1 00, because he could then see to the payment of the money out on the work embraced in his proposition, and thus obtain the security for the bonds desired? (Plaintiff's counsel objects, because the question assumes that there was on foot a negotiation for a loan. Johnson, Judge.)

Ans. I know of no other plan except that proposed by Mr. Vallette to the Board.

Ques. 39. Were the bonds in question issued to Vallette as upon a loan of money from him to the company for the amount of bonds issued? (Objected to as an attempt to prove by parol what the bonds themselves show.)

Answer. They were issued to him in pay for labor; and the bond contains a statement, on the face of them, as though it was for a loan of money.

Ques. 40. Was it not understood by the board, that Mr. Vallette preferred to pay out the money on the portion of the canal embraced in his proposition rather than pay the money to the company directly for their bonds issued to him for 50 cents on the dollar, because he could then be secure of the completion of that part of the canal? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. I DO NOT KNOW.

Ques. 41. Were the bonds in question issued in the same manner, they would have been, had a loan of money been made to the company for them?

Ans. I believe they were.

Ques. 42. Were bonds of the character of those in question issued to any other person than Mr. Vallette?

Ans. I know of none being issued to any other person.

Ques. 43. Was the fact that the directors desired to make a loan,

the reason for the course adopted, with Vallette, in the contract with him?

Ans. It was not so much the fact that the directors desired to make a loan, but the completion of the canal, that induced them to make the contract with Vallette.

Ques. 44. Do you say there was no loan from Vallette to the company, because no money was paid out by him to the company?

Ans. I say no to the whole of the question.

Ques. 45. What was the object of the surrender of the bonds, spoken of by you in your examination in chief?

Ans. It was for the purpose of so arranging them as to make the payment of the semi-annual interest payable at only two different times in the year, as the old bonds being issued at different times every sixty days made the interest payable on as many days as there were issues, or rather on twice as many days as there were bonds issued, and this was very troublesome.

Ques. 46. Did the surrender embrace the whole issue of 112 or 116 bonds?

Ans. My opinion is it did not embrace the whole issue, as the whole sum had not been paid to him.

Ques. 47. In what respect did the new issue of bonds differ from the old?

Ans. I am unable at this time to say what was the precise difference, if any.

Ques. 48. How many bonds were issued to Vallette on account of interest, and at what rate of discount were they issued?

Ans. I do not know, though I think it was during my membership of the board, that the interest bonds were issued. I do not know their numbers or amount. I do not distinctly recollect the numbers of bonds issued for interest, nor their dates. I cannot tell whether I was a member of the board when they were all issued or not, as I do not know their numbers nor their dates. (Pl't'ff objects to this answer.)

Ques. 49. Were the bonds issued for interest on the former bonds issued to Vallette, and were they of the same character as the former bonds?

Ans. I am unable to say, as I have not seen the bonds as I said before, for some ten or twelve years.

Ques. 50. Did you have more than one form of bonds printed in the issue made to Mr. Vallette?

Ans. I think I have already answered that question by saying I did not remember the precise form of the bond. I supposed it to be the same class of bond, that was my supposition. I suppose that was the fact.

Ques. 51. Did you see the bonds after they were filled up and signed in any instance you now recollect?

Ans. It is my opinion I have seen the bonds—many of them after they were filled up. The kind that was filled up and given to Mr.

Vallette on the estimates is the one I now recollect, because I do not recollect that I saw the ones given to him on the cancellation of the other bonds.

Ques. 52. Did not Mr. Vallette tell you after the answer to your last question was made and taken down and read, that it, your answer, was not what the witness meant? (Plaintiffs objects to this question because it is an evident attempt to place Mr. Vallette in a false position, as he (V.) says, and a trick. Johnson, J.)

Ans. He said in the presence of the court that "that was not what the witness meant." I understood him to address himself to the court.

Ques. 53. Were they the bonds issued under the seal of the corporation?

Ans. I believe they were.

Ques. 54. Have you any particular recollection of the matter in your last answer?

Ans. I have.

Ques. 55. Do you say that the bonds in question when issued to Mr. Vallette, were issued under the corporate seal of the company, and that you have a particular recollection of such being the fact?

Ans. I recollect of having seen a bond issued to Mr. Vallette which had the seal of the company on it; and it was usual to have the seal upon all important papers which they gave out.

Ques. 56. When was the bond shown to you, and by whom?

Ans. I believe I saw the bond yesterday in the hands of Mr. Conwell, President of the Co., in this room.

Ques. 57. Did you know that Mr. Vallette had handed the bond you speak of to Col. Hankins for examination?

Ans. I did not. I do not know how it came into Mr. Conwell's hands.

Ques. 58. Did you not hear Mr. Vallette say about the time you were looking at the bond, that the bonds were not sealed?

Ans. I understood Mr. Vallette to say, that it was not usual for companies to put their seal upon their bonds as he had the bonds of the Indiana Road (Mr. Newman's Road) which had not the seal of the company upon it. I did not understand him as saying that the seal was not attached to the bonds in question. (Plaintiff objects to the answer as being irrelevant. Johnson, J.)

Ques. 59. Have you any other knowledge than that which you have stated, that the bonds in question were issued under the corporate seal?

Ans. I have no other knowledge than that which I have already stated.

Ques. 60. To whom was application for a loan made in the summer of 1844?

Ans. I cannot now recollect distinctly of an application to any individuals person in that year, because I was not an agent for that purpose.

Ques. 61. What individuals went to Cincinnati in the summer of 1844, to effect a loan as testified by you in your examination in chief?

(Upon the asking of the last question, the counsel for plaintiff asked to have that part of his examination in chief which is referred to in the question read to the witness, which the officer decided to do, and thereupon the counsel for def't asked to have this fact entered upon the deposition which the officer proceeded to enter, and thereupon the counsel for plaintiff said he did not wish it read unless the witness desired it, and while the above entry was being made, the plaintiff said he objected to the reading and withdraw the motion. Johnson, Judge.)

Ans. It is my opinion that Messrs. Helm & Hankins were intrusted with the matters of making an effort for the company in the way of loans in 1844.

Ques. 62. Were you present when Mr. Vallette was called on by those who went to Cincinnati to make a loan in June, 1844, and do you know anything of what passed with Mr. Vallette, except by hearsay?

Ans. I was not present, and only know what passed by hearsay.

Ques. 63. Did the directors prefer to have Mr. Vallette pay the money directly to the sub-contractors on the portion of the canal embraced in his proposition, rather than have it paid to the company, because if paid to the company the contractors on the other part of the canal would insist on a portion of it being paid to them? (Plaintiff objects to this question because it is a subtle Jesuitical effort to assume a fact not proven as he says, and he desires the *the* objection entered in these words. Johnson, J.)

Ans. I have no recollection of that matter having been before the Board of Directors.

Ques. 64. Was the Act entitled, "An Act to legalize certain proceedings herein named," passed by the Legislature of Indiana, and approved January 4th, 1845, submitted to the Board of Directors, and any action thereon had by the directors, and did they petition or request the legislature to pass the same, and did they adopt it after it was passed?

Ans. I am unable to answer that question at this time, as I have not a distinct recollection of its having been before them officially.

Ques. 65. Were not the estimates of the cost of the work and of the amount of work on any portion of the canal by the engineer kept private, in all cases, except in the one instance of the contract with Mr. Vallette?

Ans. No, they were not in all cases.

Ques. 66. In what other instance were they communicated?

Ans. They were communicated on different sections of work; for instance, I will name two sections let to myself, viz., the Cambridge feeder and the Symond's Creek Aqueduct. The profiles and esti-

mates of the cost of the work by the engineer were made public and exhibited at every letting to the best of my recollection.

Ques. 67. What do you know of the canal having broken after the work had been completed; what was the extent of the breach, and what the cost of repair? (Plaintiff objects to this question as irrelevant. Johnson, J.)

Ans. On January 1st, 1847, there was an extensive breach made along the canal from Cambridge City to Harrisson. In 1847 I was not a member of the Board, and if I speak of what I know I can only speak of the section from the Cambridge Feeder Dam to the Symond's Creek Aqueduct. The expense on that portion of the work was between $1000.00 and $1200.00. My best recollection is this, the cost of repair was between $75,000 and $85,000.

Ques. 68. State what breaches there were on that part of the contract embraced in Vallette's proposition, and state, if you can, the cost of repairing the same?

Answer. The principal breach was at Green's Fork Feeder, the cost of repairing that, and some embankment immediately below, was about $1100,00 as appears by orders directed to me for payment of contractors. Some embankments were destroyed between the Milton Feeder and the one at Green's Fork; also at Beeson's Run, and at Hankin's Run; my present impression is that the repairs done in 1847 on the work done by Mr. Vallette were between $1400.00 and $1800.00, that portion of the canal generally lying higher, and more out the way of floods than most other portions of the canal.

Ques. 69. What do you know of any other break or breaks on the canal, and when were they? What was the extent of such several breaks and what was the cost of the repair of each break since January, 1847. (Plaintiff objects to this question as irrelevant. Johnson, J.)

Ans. I state that I have not been officially employed by the company since the fall of 1847, and could not speak definitely of the extent of the several breaches that have occurred since January, 1847, and only know of them from general reports of officers of the company and other individuals.

The second flood was in the fall of 1847, in which there were large and extensive breaches made upon the canal. The third I am at this time unable to locate. I think the flood that did the greatest damage was in 1852, and that these several floods cost on an average about $75,000 to $100,000, and do not recollect whether there were more than three floods that did considerable damage. (Plaintiff's counsel objects to so much of this answer as consists of statements derived from others. Johnson, J.)

Ques. 70. State who repaired the canal after it had been broken, and whether Vallette did not refuse to repair the same when applied to for that purpose, and state what would have been the earnings of

the canal if the repairs had not been made, and what the damage to renters of water power to their mills or otherwise. (Plaintiff's counsel objects to this question. Johnson, Judge.)

Answer. The company repaired the canal. On that subject I know nothing—I mean of Mr. Vallette's refusing to repair the canal. If the canal had not been repaired the earnings of the canal would have been only the proceeds of the water-power left uninjured by the *the* breaks. I could not speak definitely of the damage to renters of water-power.

Ques. 70. Prior to the flood of 1847, in the White Water River, and streams running into the same, had any apprehensions whatever been entertained by any one in regard to the liability of this canal to any very serious damage from high water? (Plaintiff's counsel objects to this question. Johnson, Judge.)

Ans. I do not think the public entertained any apprehension of serious damage from high water before 1847, but there were points, such as Symond's Creek Aqueduct and others, that were located by the State, and partly constructed by her, that apprehensions were entertained that they were insufficient.

Ques. 71. Was not the canal, as originally located and constructed, including dams and aqueducts, sufficiently guarded and protected against any flood in the White Water River that had ever been known in the country for thirty years prior thereto? (Plaintiff's counsel objects to the asking of this question. Johnson, Judge.)

Ans. Such was our opinion, except from some slight injuries.

Ques. 72. Did the Directors have any knowledge of the manner the work embraced in Vallette's contract was done?

Ans. Their principal knowledge of how the work was done was through their Engineer.

Ques. 73. Did you know that the tumble walls of every lock embraced in Vallette's contract were not put up according to the terms of said contract, and that one or two of them have fallen down in consequence thereof, and that in every other instance they have had to be propped up to keep them from falling? (Plaintiff's counsel objects because the question is leading and irrelevant. Johnson, Judge.)

Ans. I have not been in possession of any such fact; I have no such information; I do not know it.

Ques. 74. Was not Mr. Moore, the engineer of the company, under the pay of Mr. Vallette at the time of said contract, or interest therein?

Ans. I have no knowledge of any such fact.

The further taking of this deposition is adjourned till Monday morning, October 29th, 1855, at 9 o'clock A. M.

N. H. JOHNSON, *Judge, W. C. C. P.*

Monday morning, October 29th, 1855, 9 o'clock and 45 minutes. The parties present, and Henry Vallette, plaintiff, and James A. Fay, Esq., Atty. for the defendant, and A. B. Conwell, Prest. W. W. V. Canal Co., and now the said deft. resumes his Cross-examination of the said John Crum as follows, viz:—

Ques. 75. Have you not reason to believe from what you have heard Mr. Vallette say that Mr. Moore, the Engineer, was under the pay of Mr. Vallette in relation to matters connected with said contract? (Plaintiffs objects to this question. Johnson, Judge.)

Ans. No.

Ques. 76. Did the work contained in Mr. Vallette's proposition embrace more than half the work on the line between Connersville and Cambridge City? (Plaintiffs object to this question. Johnson, J.)

Ans. I am unable to answer such question, owing to the absence of figures from which to form a correct opinion.

Ques. 77. How much of it, in your opinion, did it embrace. State as nearly as you can? (Plaintiffs objects. Johnson, J.)

Ans. I am unable at this time to answer that question.

Ques. 78. Can you form no opinion of the amount it embraced compared with the whole work?

Ans. I am unable at this time to state anything definitely on that subject.

Ques. 79. Can you not say whether it embraced one-half, one-third, or one-fourth?

(Plaintiff objects to this question. Johnson, J.)

Ans. I guess, it embraced nearly one-half.

Ques. 80. Do you say the canal was insufficiently repaired prior to 1852, because at points where it had been previously repaired, it was not able to resist the force of the flood of that year.

Ans. Such was my opinion.

Ques. 81. Was not the canal originally located so low that it is now deemed almost, if not quite, impossible to make it permanent against the high waters that have visited the valley, and laid waste the canal at three successive periods?

(Plaintiffs object to ques. as irrelevant. Johnson, J.)

Ans. Portions of it were of that character, particularly its feeders.

Ques. 82. Have you any personal knowledge of the character of the repairs of the canal required by the floods of 1847 and 1848, as to whether such repairs were sufficiently or insufficiently made?

(Pl'tiffs objects. Johnson, J.)

Ans. I have, and especially of those under my own supervision at Cambridge City.

Ques. 83. Were not the repairs generally such as to restore the canal to its original character, and at most of the points improve and strengthen the original work?

(Pl'tiff objects. Johnson, J.)

Ans. In 1847, I do not believe the repairs were such as to restore the canal to its original character, although at many points they

were such as to make it as good as before. If the repairs of 1848, I am unable to speak.

Ques. 84. Was the work embraced in the proposition or contract of Mr. Vallette performed by sub-contractors?

Ans. It was my information that Mr. Vallette let out the work.

Ques. 85. Was any meeting of the stockholders called by the board to take any action, or express an opinion in relation to the contract with Vallette, and when you say a majority of the stockholders were in favor of it, do you intend simply to express an opinion?

(Pl'tiff objects to ques. Johnson, J.)

Ans. Did not the board, through agents, obtain a large number of proxies for the purpose of securing their re-election, and was it not thus secured against a strong opposition?

(Pl'tiffs objects. Johnson, J.)

Ans. I have no knowledge of the board authorizing any proxies to be taken.

Ques. 87. Did not the board of directors individually obtain a large number of proxies, and were not a large number obtained by other individuals for the use and benefit of the board, and in some instances by the agents of the Co., to be used at said election, and were they not so used?

(Pl'tiffs objects. Johnson, Judge.)

Ans. Perhaps several members, and perhaps all of them, for what I know, obtained proxies. A large number were obtained by other individuals, for the benefit of those who were re-elected. I have no doubt a large number were obtained by the agents of the company, to be so used, and that they were so used.

Ques. 88. Will you name any sale of the small certificates at the prices named by you in your examination in chief?

Ans. The prices named by me in my examination in chief, that is 60 cents, was the current price at the time I offered them myself at the hotels, in Connersville, for 50 cents on the dollar, and could not dispose of them.

Ques. 89. Was Judge Mount put on the ticket with the other old directors at the election succeeding the contract with Vallette?

Ans. My present impression is, he was a candidate for re-election. I do not know whether his name was put on such ticket.

Ques. 90. Did the company hold a large amount of real estate (unsold), in July, 1844?

Ans. The company had a considerable amount of real estate, the amount I could not now give.

Ques. 91. Does the report of the secretary of the company, July 1, 1844, contain the truth in relation to the affairs of the company generally, and particularly in reference to its means and liabilities?

Ans. I believe it does.

Ques. 92. Are you a stockholder? How much stock did you hold in July, 1844?

Ans. I am not now a stockholder. I am unable to say how much I held at the time specified.

Ques. 93. Did the stockholders generally know that the terms of the contract with Vallette seemed to him double the cash estimates of the engineer or thereabouts for the work embraced in his contract?

(Pl'tiff objects to the question. Johnson, J.)

Ans. I do not suppose they did.

Ques. 94. Please describe the small certificates of stocks spoken of by you, and state if they were not issued to circulate as money, so far as the company was concerned, and was not said issue wholly unauthorized and illegal?

Ans. These certificates never regarded as an issue of money by us. They are denominated small certificates of stock of the denominations $1, $2, and $5 00. I can't give the form of these certificates. I believe they were authorized by the company. I believed the company had power to issue these certificates.

Ques. 95. Were they made payable to some person or bearer, and were they not paid out by the company as money to persons to whom the Co. was indebted, and made receivable for the dues of the Co., and did not the Co. promise to take them up in money?

Ans. I am unable to give the wording of the certificates. When those certificates were paid out to individuals for work performed, the secretary took a receipt for them, from such a number to such a number. They were made receivable for the dues of the Co. I think the words in reference to taking them up were, they promised to take them up as means arise from the payment of stock and sale of real estate." I suppose the word "MEANS" means money.

Ques. 96. Was it not a regulation of the Board that the proceedings should be conducted privately, and be so kept afterwards?

Ans. I do not know of any such regulation.

Ques. 97. Were the proceedings of the Board, in relation to the propositions of Vallette and the contract with him entered in the records of their meetings? [Pl't'ff objects, because he says it is already proven. Johnson, Judge.]

Ans. They were made a matter of record.

Ques. 98. Do you know the part Mr. Parker took in the negotiation with Vallette, except what you have been informed?

Ans. Only such parts of it as occurred in my presence.

Ques. 99. What part occurred in your presence? [Pl't'ff objects to this question as irrelevant. Johnson, Judge.]

Ans. I am unable to give more than a general outline, that he acted as the mutual friend of *the* both the parties, and was active in having the contract consummated.

Ques. 100. Can you, or will you, give any further answer to question No. 99?

Ans. I mean by drawing up the proposition of Mr. Vallette, the order of Board, and by assisting in the arrangement of the contract.

Ques. 101. Why was not the whole amount of the bonus, $52,200, paid to the Co. by Vallette on settlement with him?

Ans. I don't know.

Ques. 102. How much will it take to keep the canal in repair each year, as a probable amount?

Ans. I am unable to say.

Ques. 103. Would you have regarded it usury to have issued the bonds in question, and received for them 50 per cent. of their principal, had the Board thought proper so to dispose of the same? [Pl't'ffs objects to the question. Johnson, Judge.]

Ans. I do not think it would be.

Ques. 104. Has not the subject of the questions, or some of them, asked you by the complainant, been named or exhibited to you since the commencement of the taking of your deposition by Vallette; and were not the answers to be made thereto, in some instances, if not all, then expressed and understood between you and Vallette?

Ans. I saw in the possession of Mr. Vallette the copy of the proposition made to the company by Mr. Vallette, the copy of the order of the Board, some estimates made out by the secretary. I asked him to see the deposition of Mr. Parker, but have not been furnished by Mr. Vallette the answer to my question whatever.

Ques. 105. State whether Vallette did not take your affidavit *ex parte*, to be read on an interlocutory motion in this cause, and state how often he has talked with you about this case, and what you would state. [Pl't'ff objects to this question. Johnson, J.]

Ans. He did so take my affidavit. I think I have been seen Mr. Vallette twice or three times since my affidavit was given, and before the commencement of this deposition. I have been perhaps once or twice asked what my recollection of certain matters was, but have not been asked to give him what I would state of any matter; the interviews between Mr. Vallette and myself have been very short upon all occasions up till the time we met here.

Ques. 106. Did not Mr. Vallette hand you a copy of Mr. Parker's deposition, taken in this cause before Judge Reed by him, prior to the commencement of the taking of your deposition, and desire you to read it?

Ans. I asked him to let me see Mr. Parker's deposition, I mean a copy of it, and I looked at part of it previous to the commencement of my deposition. I received no lights from that deposition that enabled me to answer questions propounded here. I have not read one-half of the deposition yet. It was in my possession from Saturday night till this morning, along with some other papers connected with the cause, but it was not seen by me during that time.

Ques. 107. Have you not examined it (Parker's deposition) several times during the taking of your deposition?

Ans. I think I may have read parts of it several times, but have not in all read one-half of it.

Ques 108. Did not Vallette read to you Mr. Parker's deposition,

or parts of it, or inform you have he had answered certain matters or questions, before or since he commenced taking your? [Pl't'ff objects. Johnson, J.]

Ans. Mr. Vallette, previous to the commencement of my deposition, in this room read to me a small part of Mr. Parker's deposition. This was on the same day I commenced testifying.

Ques. 109. Did not Mr. Vallette hand you the affidavits of Messrs. Murphy, Hankins and others, or some of them, made for the same purpose, as your own for your examination, before or since the commencement of taking your deposition?

Ans. He gave me the affidavit of Col. Murphy previous to the commencement of mine, and previous to the taking of my affidavit *ex parte* above referred to.

Ques. 110. Did not Mr. Vallette, on last Friday morning, previous to the commencement of your examination, have a conversation with you in relation to what you had testified to on the day previous (*i. e.* Thursday last), and suggest the manner or matter of certain answers to other questions?

Ans. Mr. Vallette has said nothing to me out of doors but what he universally said in the house; "to make them short," in the presence of the judge and the attorneys of the case, as from the course pursued, the object was, as he believed, to spin out the matter as much as possible.

Ques. 111. Has not Mr. Vallette had conversations with you about the case, during your examinations, at every adjournment nearly of your deposition?

Answer. There may have been words spoken about the case at half of the adjournments.

Ques. 112. Did Mr. Vallette say to you that the foregoing questions were insulting, and that if he was the witness he would not answer them?

Ans. This much I understood as Mr. Vallette came in the door; he said, "Such questions were insulting to the witness, and that HE would not answer them."

Ques. 113. Did not Mr. Vallette talk to you on Friday noon in relation to your testimony in certain particulars? Did he not, on Friday evening, after the adjournment, talk with you about the evidence, and suggest or intimate how he considered certain matters in the case?

Ans. I cannot state more definitely as to that matter than I have already stated.

Ques. 114. Did Mr. Parker, in the transaction with Mr. Vallette, act any differently from what did on the part of the Co. in the making of all the contracts of the Co. with those persons they had contracted with?

Ans. I believe Mr. Parker did not act differently from what he did in other contracts when he was there.

The counsel for the defendant here closed his cross-examination,

and thereupon the plaintiffs in person commenced his re-examination as follows, viz:—

Re-examination.

Question No. 1. In reference to question 20, of cross-examination, state to whom did the sub-contractors of Vallette look for their pay.

Answer. They looked to Mr. Vallette.

Ques. 2. In reference to ques. 23 (cross-examination), state what Mr. Vallette did to obtain the contract. Did he use unfair means or deception? State whether each party acted with a full knowledge of the condition of the Company.

(Def't's counsel object, because he examined nothing about this. Johnson, J.)

Ans. He came to Connersville and made offers as to doing the work. I know of no unfair means or deception used by him in obtaining the work. I believe both parties acted with full knowledge of the condition of the Co.

Ques. 3. In your reply to question 28 (cross-examination), you say the Company "loaned the labor of Mr. Vallette and paid him in bonds." I ask you to state whether or not the Co. purchased or borrowed the labor of Mr. Vallette for their bonds, and what you mean by loaning labor from him?

Ans. The words "purchase" would be proper, and the word "borrow" is improper. The word "purchase" would communicate what I meant.

Ques. 4. In your reply to question 37 (cross-examination), you speak of your opinion that the Board had a right to sell the bonds of the Company for what they would bring. State whether or not the Board of Directors had conversations or took action on that subject.

Answer. I do not remember that the Board took any action on that subject. I don't now recollect any distinct conversation on the subject.

JOHN CRUM.

This deposition was by me lawfully read to the witness, by him corrected and signed in my presence.

Tuesday, October 30th, 1855.

N. H. JOHNSON,
Judge W. C. C. P.

And now, viz: Monday, October 29th, 1855, at 4 o'clock and 40 minutes P. M., comes Miles Murphy, of lawful age, who being first duly affirmed, according to law, to speak the truth, the whole truth, and nothing but the truth in this cause, he doth depose and say as follows, viz:—

Question No. 1. State if you have been an officer of the W. W. V.

Canal Co.; if so, what office you held, and what time and how long an officer?

Answer. I was an officer of said Company, being a director thereof from the first organization of the Board till some time after the canal was completed to Cambridge City; I was President a short time of the Co.

Ques. 2. State whether any part of the canal was constructed before the organization of the Co.; and, if so, by whom?

Ans. The canal was completed by the State from Lawrenceburgh to Brookville, and some work done above that.

Ques. 3. How much was expended on the whole line of the canal by the State before the organization of the Co?

Ans. I understand something over $100,000.

Ques. 4. State what was the condition of the W. W. V. Canal Co. in the early part of the summer of 1844, and what you know of said Canal Co. endeavoring to make loans of money; what was the condition of the credit of the Co.? Had they a circulating medium, and what was its market value at that time?

Ans. The finances at that time were in a bad situation and the credit low. We made efforts to loan money from banks and capitalists at Cincinnati and other places, and failed to do so. We had issued what we called stock certificates or scrip. It was not (in round numbers) worth more than 50 cents to the $1.00.

Ques. 5. State what you know about a contract made between said Canal Co. and Henry Vallette; when was it made, and what was the objects of it?

Ans. We made a contract with Henry Vallette, of Cincinnati, to complete the canal from Connersville to Cambridge City. The contract was made in the summer of 1844, in June or July, it was commenced in June.

Ques. 6. State if the contract was regarded by the company and stockholders favorably or unfavorably at the time it was made, and what its effect was upon the credit of the company, and what influence it had on the completion of the canal?

(Deft's counsel objects to this question. Johnson, J.)

Ans. A majority of the stockholders, so far as I heard an expression, regarded the contract favorably. The contract raised the credit of the small certificates we had issued, and enabled us to go on with the work below Connersville and above Laurel, which work was not completed at the time Vallette took his contract. The contract with Vallette had the effect to complete the canal to Cambridge City.

Ques. 7. Look at these papers marked A, A, and the other A, endorsed Miles Murphey, Benjamin F. Reeve, and John Crum, and state whether or not the one marked A is copy of the original proposition of Vallette, and whether or not the one marked A, A, is a copy of the records of the Co. and of their action upon proposition aforesaid?

Ans. I believe the one marked A and endorsed as specified, is a copy of Vallette's proposition for the contract, and that the one marked A A is a copy of the record of the Co. and the acceptance of it. I believe it is stamped with the seal of the Co.

Ques. 8. State whether or not the papers marked D, D, Nos. 1, 2, 3, and 4, and with R. G. Hedrick's name written thereon to identify them, are copies of receipts of estimates of work done by Vallette on said canal, and whether the body of the papers and the name of L. B. Tupper, Sect'y, are in the handwriting of the Sect'y of the Canal Co. at the time. (Deft's counsel objects to the proof of said papers as illegal in the manner attempted.)

Ans. I think the signature and body of the papers is the handwriting of Mr. Tupper, the Sect'y of the Co. at the time contract was made.

At this time, Monday, October 29th, 1855, 5 o'clock and 35 minutes P. M., the further taking of this deposition is adjourned till to-morrow morning at 9 o'clock A. M.

N. H. JOHNSON,
Judge.

And now, at 9 o'clock and 5 minutes A. M., Tuesday, October 30th, the parties met, present Henry Vallette, Esq., plaintiff, and James A. Fay, Esq., att'y for the def't, and A. B. Conwell, Esq., Pres't W. W. V. Canal Co., and the plaintiff proceeded with the examination in chief of Col. Murphy, as follows:—

Ques. 9. Look again at the papers signed by Tupper, marked D, D, and last shown you, and state what the body of those papers purports to be? (Def't objects to the question. Johnson, J.)

Answer. I understand the body of these papers to be a copy of the estimates handed Vallette from time to time as the work progressed. (Def't objects to this answer. Johnson, Judge.)

Ques. 10. State what you know about Vallette's performing this contract, under whose superintendence was the work done?

Ans. I understand Mr. Vallette completed the work according to the contract with the Co. The work was done under the superintendence of Henry C. Moore, Esq., engineer of the Co.

Ques. 11. Who paid that engineer?

Ans. The company.

Ques. 12. State whether or not the work was recovered and accepted and by whom and when it was accepted. State whether any objections were made as to the manner in which the work was done, and what objections were made if any?

Ans. The work was accepted by the Co. I cannot recollect the exact time of the acceptance, but I understood it was completed at the time specified in the original contract and accepted about that time. No objections were made to the work to my knowledge.

Ques. 13. State how and in what manner the work was paid for. State if estimates were made as the work progressed, and if so, by

whom they were made, and state if bonds were executed by the Co., and if so, describe the bonds as nearly as you can so far as date and time are concerned, and who signed the bonds as president and secretary?

Ans. The work was paid for in bonds of the Co. Estimates were made as the work progressed, I think every 60 days, by Henry C. Moore, engineer of the Co. The bonds were signed by Meredith Helm, President, and attested by L. B. Tupper, Secretary. I cannot recollect the exact date of the bonds.

Ques. 14. State how often bonds were given from time to time on estimates, and what amount was deducted when estimates were made, and state whether or not the am't so deducted was afterwards paid by the Co., and if so, when?

Ans. Bonds were given, as each estimate was made as the work progressed, to Mr. Vallette, holding back 10 per cent. The am't so deducted was afterwards paid by the Co. in its bonds, some time after the completion of the work.

Ques. 15. State what you know of the bonds first issued being afterwards taken up and other bonds issued therefor, and when the last issue of bonds was made by the Co. to Vallette.

Ans. The bonds that were issued as the work progressed were afterwards taken up—the time I cannot exactly recollect, whether it was after or before the completion of the work; and new bonds were issued to him; the object of issuing these new bonds was to make even dates.

Ques. 16. State at what time, as near as you can, during the progress of the work the last issue of bonds was made to Vallette.

Ans. My impression is the last bonds were issued in the spring or summer of 1845. I cannot exactly recollect the time.

Ques. 17. State what alterations, if any, were made in the proposition of Vallette to the Company marked *A* of the contract. State if the contract was made according to the proposition, or otherwise.

(Defendant's counsel objects to this question. Johnson, J.)

Ans. The first proposition of Vallette to the Co., marked *A*, was to complete the work for $125,000, Vallette paying the Co. a bonus of $500 00 in their own paper. I think that proposition was accepted by the Co. There was some dissatisfaction as to the amount of work, and the contract was changed to one of specific prices for the whole work, according to the proposition for $125,000, in proportion to the work done. Some members supposing that there was not work amounting to the sum of $125,000, but wishing him to be paid for the work he did at the rate of $125,000 for the work which his proposition assumed there was to be done.

(Defendant's counsel objects to this answer. Johnson, J.)

Ques. 18. State who were Directors of the W. W. V. Canal Co. when the contract was made with Vallette, and gives the names of those who are now living.

Ans. The Directors were Solomon Claypool, John Crum, Daniel

Hankins, Caleb Jackson, B. F. Reeve, Daniel Sinks, Meredith Helm, David Mount, and Miles Murphey, of whom the following have since died, viz: Solomon Claypool, Caleb Jackson, Daniel Sinks, and David Mount.

Ques. 19. State what part was taken by S. W. Parker in negotiating between said Vallette and the W. W. V. Canal Co. State at whose request he acted, and how you regarded him. State if he acted as attorney of the Canal Co. State whether or not he acted as the mutual friend of the Co. and Vallette in negotiating the contract between them.

(Defendant's counsel objects to this question. Johnson, Judge.)

Ans. Mr. Parker was the attorney of the Co.; he took an active part in inducing Vallette to take the contract, and used his influence with the Directors to induce them to make the contract, and was anxious to have it made.

Ques. 20. State how many days the Board was in session when the contract was made with Vallette.

(Defendant's counsel objects to this question. Johnson, Judge.)

Ans. The Board was in session several days; I cannot recollect the exact number.

Ques. 21. State what you know, or have reason to believe took place respecting a loan of money from Vallette to said Canal Co. about the time of making said contract, or at any other time.

(Defendant's counsel objects to this question. Johnson, Judge.)

Ans. I do not know of ever hearing anything said about making a loan of money from Mr. Vallette to the Co.

Ques. 22. State whether or not you have heard at any time previous to said contract or since; or if you know directly or indirectly anything about a loan of money from said Vallette to said Canal Co. about the time of making said contract, or at any other time.

(Defendant's counsel objects to this question. Johnson, Judge.)

Ans. I do not now recollect of hearing anything said before or since of making a loan of money from Mr. Vallette to the Company.

Ques. 23. State what were your opportunities for knowing, had there have been a loan of money covered up or intended to be covered up in the contract between Vallette and said Canal Co. State whether or not the contract was made in good faith. State whether or not the papers connected with said contract truly set forth the objects of said contract, and whether you considered it then an advantageous one to the Co.

(Defendant's counsel objects to this question. Johnson, J.)

Ans. I generally attended the sittings of the Board, was familiar with their doings, and had there been a loan of money intended, I think I should have heard something about it. The contract was made in good faith by the Co. so far as I know. The papers specified, so far as I have seen them, truly set forth the object of said contract. I considered it an advantageous contract for the Co. at

the time it was entered into; in other words, I considered it the best thing we could do.

Ques. 24. State whether or not you have seen the contract, or a copy thereof, between Vallette and said Canal Co., and whose signatures are attached to it, as the contracting parties. (Def't's counsel objects to this question. Johnson, Judge.)

Answer. I think I have seen a copy of the contract. It was signed by the proper officers of the Co. and Mr. Vallette.

Ques. 25. State whether you placed your name upon that copy, and if so, for what purpose.

Answer. I believe I placed my name there. My understanding was, it was so placed for the purpose of identifying the paper.

Ques. 26. State what you know of any device or management intended by said Canal Co. or Henry Vallette to avoid the usury laws of the State of Indiana, in making said contract between Vallette and the Canal Co., and state whether or not Vallette took all the risks of the work performed for the Co. on the canal under the contract. (Def't's counsel objects to this question. Johnson, Judge.)

Ans. I do not know of any device or management to cover up usury. I understood that Vallette was to complete the work between Connersville and Cambridge City according to the contract. All I know about risk is, that if he had not completed the canal he would not have performed his contract.

Ques. 27. State whether Mr. Vallette assumed the ordinary risk of contractors. (Def't's counsel objects. Johnson, Judge.)

Ans. I understand that he did.

Ques. 28. State what Mr. Vallette did to obtain the contract, whether he employed unfair means or deception to obtain it. Did each party act fairly, and with a full knowledge of the condition of the Co.? (Def't's counsel objects to this question. Johnson, Judge.)

Answer. He come to Connersville and we laid before him the condition of the Company as far as we could. To my knowledge, he did not use unfair means or deception to obtain the contract. It is my understanding that each party did act fairly, and with a full knowledge of the condition of the Company.

Quest. 29. State what you know of the Canal Company having largely anticipated their available means at the time of making the contract with Vallette, and what was the amount of scrip or circulating medium put in circulation by the Co. out at that time.

Answer. We had anticipated the available means of the Co. to a large extent. I do not recollect the exact am't of scrip or small certificates in circulation, but suppose there was some $50,000 or $60,000 of it.

Ques. 30. State what objections you have heard made against the quality or goodness of the work performed by Vallette for said Canal Co. If you have heard objections made against said work, state when you heard them, and by whom made.

Ans. I do not now recollect of having heard any objections made to the quality of the work.

And at this point the plaintiff closed his examination in chief of this witness, and def't's counsel, before proceeding to examine said witness, asked to have entered at this place the following protest, viz:

"The defendant, by her counsel, protests against the taking of "the foregoing deposition, and in cross-examining said witness waives "no right to object to the taking of the same at this time, to the "competency of the officer to take the said depositions, and to make "all other objections against the use of said depositions on the sub-"mission or trial of the cause authorized by the fact and the law."

Cross-examination.

Ques. 1. How long is it since you ceased to be a Director of said or to him any connection therewith?

Ans. Some six or seven years.

Ques. 2. Did the Board of Directors authorize Messrs. Geo. Graham and Griffin Taylor of Cincinnati, to make a loan of $100,000 for the use of the Co., and did they propose bonds therefor in the sum of $1000.00 each, bearing 6 per cent. interest, payable in advance in New York, the principal being payable in ten years?

Ans. My recollection is that the Board appointed Taylor, and, I think, Graham, to go to New York to obtain a loan of money for the Co. I do not remember the am't they were authorized to negotiate, but I think it was $100,000. I cannot remember whether the bonds were prepared, nor do I recollect the particulars as to whom the interest was to be payable, nor the time when the principal was to be payable.

Ques. 2. Did Messrs. Taylor and Graham visit New York with a view to effect said loan, and what offers therein did they receive for said bonds?

Ans. I think they visited N. York; I do not remembered what their report was to offers received, whether any; I only remember that they failed.

Ques. 3d. Was the credit of the Co. very much depressed in June, 1844, and were the Donators anxious to effect a loan, and were applications made by them therefor to different individuals? (Pl't'ff objects to this question. Johnson, Judge.)

Answer. The credit was very much depressed, and the Directors were anxious to effect a loan, and applied for that purpose to individuals and banks.

Ques. 4. How much were the Directors desirous to loan, and for what purpose did they wish to loan?

Ans. They (I think) desired to make a loan sufficient to complete the canal, and wanted it for that purpose. There were different estimates, from $75,000 00 to $100,000 00 of the am't necessary.

Ques. 5. State what was the business of Vallette, and where he

resided at the time this contract was entered into, and whether he had ever been a contractor for building or repairing canals or other public improvements previously, and if so, where and when? And if his business had not previously been, and was not at the time and since, a broker or money-lender or dealer? (Pl't'ff objects. Johnson, Judge.)

Ans. I understood that Mr. Vallette's business was that of a dealer in money. I do not know whether he was a broker or not. I got my information from others. I never heard of his being a contractor till he took our contract. I do not know what his business has been since, but do not understand that he was a contractor before or since.

Were not the terms of Vallette's proposition arranged and agreed upon between him and the Board before the same was drawn up as presented? (Pl'tff objects to this question. Johnson, J.)

Answer. There was considerable talk about the terms of the proposition before it was drawn up; it was then drawn up and presented to the Board by Mr. Vallette or Parkers, I do not know which.

Ques. 7. In what manner was the sum of $125,000 00 mentioned in the proposition of Vallette arrived at?

Answer. I suppose it was from the estimates of the amount of work to be done, that he made his bid for that sum in the bonds of the Co.

Ques. 8. Was it understood between the parties that the bonds to be issued to Vallette, as contemplated in his proposition, were to be secured by a pledge of his Canal and the property of the Company, as authorized by section 18 of the charter of the Co.? (Pl't'ff objects. Johnson, J.)

Ans. I cannot recollect whether we predicated it altogether upon that section; but we supposed the charter gave us the power to pledge the Canal for a loan or debts. I do not know of any other section giving that power.

Ques. 9. Was the proposition of Vallette to complete certain portions of the Canal for $125,000 00 in the bonds of the Co. accepted with the undertaking that this sum would give him 100 per cent., or thereabouts, on his investment, or the amount actually advanced by him on said work. (Pl't'ff object to this question. Johnson, Judge.)

Answer. We calculated at the time that we were giving him a large profit, but that such profit would depend upon the value of the bonds, of which we knew nothing.

Ques. 10. Did the Board contract with Vallette in the same manner that they let all the other work on the Canal to the contractors?

Answer. My understanding is that it was so made. We received his proposition and entered into a contract, as in other cases.

Ques. 11. Did not the Board in every other case give public notice of the proposed letting and receive sealed proposals for the work bid for?

Ans. The Board sometimes advertised the work, and had public lettings and received bids, but sometimes they made private contract with individuals for work.

Ques. 12. Name any individual to whom work was let, without it having been publicly offered and bid for, and without sealed proposals being required? (Pl't'ff objects to this question. Johnson, J.)

Ans. I cannot now recollect any particular person.

Ques. 13. Could not the whole of the work specified in the proposition of Vallette have been let to contractors at less than the estimate of the engineer, and was not the same thus subsequently let, and how much did the whole cost? (Pl't'ff objects to this question as irrelevant. Johnson, J.)

Ans. I could not tell what we could have got the work done for, if we had had the money in the treasury, which we had not. We could not have let it for very reasonable sum with the money we then had. I cannot recollect what the estimate of the engineer was. To the best of my recollection, Mr. Vallette paid out between $60,000 00 and $70,000 00 in cash on the work.

Ques. 14. Were not the prices fixed by the engineer of the Co. in the contract with Vallette for the various kinds of work by the direction of the Board?

Ans. I suppose they were fixed by him under orders from the Board.

Ques. 15. State whether the am't paid to Vallette by the Co. was not 100 per cent. or thereabouts more than the estimated cost of the work, and whether the cost of the work was not more than the estimate, and if so, how much? (Pl't'ff objects. Johnson, Judge.)

Ans. I cannot recollect the estimate of the engineer, nor do I know what per cent. Mr. Vallette made. I think the work amounted to less than the engineer's estimate to the Co.

Quest. 16. Do you pretend to say that Mr. Vallette in this transaction did not calculate to receive, and did he not receive 100 per cent., or thereabouts upon the *cash* estimates and work done; and do you wish to be understood as saying that Vallette did not consider his advances as money loaned and laid out, and expended for the use of the company in completing that part of the canal, to be refunded with 100 per cent. by the proceeds of the bonds in question? (Plaintiff objects. Johnson, J.)

Ans. I do not recollect of hearing Vallette say what he thought he would make on the contract; neither could he nor the company tell what he could make, because there was no cash value to the bonds at that time, nor could there be, until the work was complete. I understood he considered it money advanced to complete the work. I do not think he considered it as a loan, but that he was paying it out on the work. I do not know what Vallette calculated to receive or to make.

Quest. 17. State whether the board would have made the contract with Vallette if they had been in funds to do the work done by

Vallette, and whether the contract was not made under peculiar pressure upon the company for means to do the work, and whether Vallette at the time the contract was entered into, was not fully apprised of the necessities of the company? (Plaintiff objects. J., J.)

Ans. The board would not have made the contract with Vallette if they had had the funds to do the work themselves, the contract was made under the pressure indicated. I think Mr. Vallette was pretty well acquainted with the financial condition of the company.

Quest. 18. Were the prices affixed to the various kinds of work in the contract with Vallette arranged on the basis of $125,000 in the bonds of the company being paid for the whole work? (Plaintiff objects to this question. Johnson, Judge.)

Ans. The estimate of the engineer was made upon that basis.

Quest. 19. Did the bonds which were to be issued to Vallette as contemplated by his proposition to the company differ from those which were issued to him? and if so, in what respect? (Plaintiff objects. Johnson, Judge.)

Ans. I think Mr. Vallette received the same character of bonds as was calculated in his proposition to the company.

Quest. 20. Was the sum of $125,000 00 mentioned in the bond taken, or adopted from the proposition of Vallette to complete certain portions of the canal for $125,000 00?

Ans. I do not know; but I suppose it was taken from his proposition to complete the canal for that sum.

Quest. 21. Why does each of the bonds issued to Vallette by the company state that the $1000 00 therein named is part of the first and only loan of $125,000 00 created by the company under her charter for the completion of the canal? (Plaintiff objects to this question. Johnson, J.)

Ans. I do not know, but I suppose it was for the purpose of carrying the facts of the case, that this was the only issue of bonds made by the company.

Quest. 22. State under what section of the charter the bonds in question were issued, and attach the section to your answer?

Ans. I suppose it was under the 18th section, which reads as follows, viz: The President and Directors of said company, or any agent of theirs thereunto by them lawfully authorized, shall have full power to negotiate any loan or loans that may be by said company deemed expedient for carrying out any, or all of the objects contemplated by this act, and for the payment of such loan agreeably to the terms agreed upon, said company shall bind themselves by their bonds, which bonds when signed by the President, and attested by the secretary of the company, and by the company duly ordered to be issued, shall be a valid lien upon all the stock and effects of said company in the order of their issue, and all the effects of said company, both real and personal, shall be deemed and taken as a pledge for the punctual payment of the interest on said bonds,

and the ultimate redemption of the principal, agreeably to contract."

And now, viz., October 30th, 1855, at 3 o'clock and 35 minutes, owing to the illness of the officer, N. H. Johnson, the farther taking of this deposition is adjourned till to-morrow morning at 9 o'clock.

N. H. JOHNSON,
Judge, W. C. C. P.

And now, on Wednesday morning, October 31st, 1855, at 9 o'clock and 15 minutes A. M., the Court met, present, Henry Vallette, Esq., plaintiff, and James A. Fay, Esq., Att'y for defendant, and A. B. Conwell, Esq., Pres't W. W. V. Canal Co., and said att'y for def't proceeds with his cross-examination of Col. Murphy as follows, viz:

Quest. If these bonds were not issued on a loan from Henry Vallette, of whom was the loan obtained for which they were issued? (Plt'ffs objects to this question as a Jesuitical assumption of what is not proven as he says. J., J.)

Ans. There was no loan obtained from any person, but these bonds were issued to pay Henry Vallette for his work on the canal.

Ques. 24. If these bonds were not issued upon a loan, upon what authority were they issued? and please set out the authority for their issue.

Answer. I never examined the charter particularly, but relied on the opinion of Mr. Parker, the attorney for the Co., who said we had power to issue bonds for a loan or any other debt necessary to carry on and complete the canal. I cannot set out the particular clauses giving the authority. (Def't objects to statement of Mr. Parker's opinion. Johnson, J.)

Ques. 25. Why did not the Directors receive the am't of the estimated cost of the work, or the am't they desired to loan and issue Vallette the bonds instead of resorting to the plan adopted? (Pl't'ffs objects to this question. Johnson, Judge.)

Answer. I do not know.

Ques. 26. Would the Directors have preferred to issue the bonds to Vallette and receive the money directly from him to the plan adopted? (Pl't'ff objects to this question.)

Answer. We would have preferred borrowing the money from Vallette or any other person, if we could have sold the bonds for what we considered a fair price. We had made repeated attempts to borrow money but had failed.

Ques. 27. Did Vallette object to paying this money over to the Co., and receiving their bonds therefor at once, on the ground that the money might not be applied to the completion of the canal, and that in such case the security of the bonds would be ineffectual? (Pl't'ff objects. Johnson, J.)

Ans. I do not recollect of any talk about borrowing money of Vallette during the time we were making the contract with him.

Ques. 28. What was the objects of the surrender of the bonds spoken of by you? (Pl't'ff objects to this qs. Johnson, J.)

Ans. My understanding was, that it was for the purpose of making even dates, and making the interest on all payable at the same time.

Ques. 29. Did it embrace the whole issue of 112 or 116 bonds, or what number?

Ans. I cannot now recollect.

Ques. 30. In what respect did the new issue differ from the old? when was the surrender and the new issue?

Ans. I cannot recollect of ever reading either the old or new bonds, therefore I cannot tell whether they were different or not. I cannot remember the dates of the surrender or of the new issue.

Ques. 31. Was not the 10 per cent. deducted from each estimate carried into the next succeeding estimate, and the bonds then issued the whole balance over a $1,000 00? (Pl't'ff objects. Johnson, Judge.)

Ans. My understanding was, at the time, that the 10 per cent. was kept back to secure the completion of the contract, as our rule was with all contractors.

Ques. 32. Was the act, entitled "An act to legalize certain proceedings herein named," passed by the Legislature of Indiana and approved January 4, 1845, submitted to the Board of Directors, and any action thereon had by the Directors? and did they petition or request the Legislature to pass the same, or adopt it after it was passed? (Pl't'ff objects. Johnson, Judge.)

Ans. I cannot recollect that there was any action of the Board had thereon.

Ques. 33. Were not the data, exhibited to Mr. Vallette and the representations therein, made to him by the Engineer of the Co. by the directions of the Board in relation to said work, and the cost thereof, such as to amount to an absolute and positive assurance that the bonds to be issued to him should not cost him more than 50 per cent. on the $1.00? and do you believe that without such data and representations, and a confidence in them on his part, he would have made such proposition or entered into this contract? (Pl't'ff objects to this question. Johnson, Judge.)

Ans. My recollection is that our engineer laid before Mr. Vallette the estimate of the work to be done, what that amount was I cannot tell. I do not know whether without such data, representations, and his confidence in them, he would or would not have made his proposition.

Ques. 34. Were the bonds in question issued to Vallette as if upon a loan of money from him to the Co. for the amount of bonds issued? (Plaintiffs objects to this question. Johnson, Judge.)

Answer. I suppose the bonds were issued in the same form as if we had made a loan of money from Mr. Vallette.

Ques. 35. Prior to the flood of 1847 in the White Water River, and the streams running into the same, had any apprehensions what-

ever been entertained by any one in regard to the liability of the canal to any very serious damage from the high waters? (Plaintiffs objects. Johnson, J.)

Ans. Not so far as my knowledge extends.

Ques. 36. Was not the canal as originally located and constructed, including dams and aqueducts, sufficiently guarded and protected against any flood in the White Water River that had ever been known?

Ans. We thought so; I mean the Board thought so.

Ques. 37. Were the estimates of work made to Mr. Vallette made on the basis of $125,000 00 being paid for the whole work?

Ans. The estimates were made on this basis: Mr. Vallette supposed there was a certain am't of work to do, for which he asked $125,000 00, but it was ascertained there was not quite that much to do, and we allowed him for the work he did do, at the rate of $125,000 00 for what he thought there was to do, and the estimates were made to him on that basis, itemizing the different kind of work, and fixing the prices thereof accordingly.

Ques. 38. What was the object of the bonus of $522 00 mentioned in the contract of Vallette to be paid by him to the Co., and why was it not all paid?

Ans. My understanding of the object of Mr. Vallette in giving that bonus, is that it was to secure the contract; it was a part of the proposition for the contract; I do not recollect why it was not all paid.

Ques. 39. How many of the bonds issued to Vallette were for interest? and were they issued at the rate of 70 cents to the $1.00?

Ans. I think four (4) of the bonds were issued for interest. I do not recollect at what rate these four (4) were issued.

Ques. 40. To whom was application for a loan made in the summer of 1844? (Pl't'ff objects. Johnson, Judge.)

Answer. I do not know; or, rather, cannot name particular persons. The applications were made through agents that we sent to Cincinnati, and also to New York. I had no personal knowledge of the applications.

Ques. 41. Was the transaction with Vallette in effect a loan under the eighteenth (18) section of the charter of the Co., of the am't of money desired by the Co. to complete the portion of the canal embraced in his proposition, with a provision for the application of the money to the particular portion of the work, to give greater security to the bonds to be issued therefor? (Pl't'ff objects to this question. Johnson, Judge.)

Answer. The transaction with Vallette was a contract with him to finish the canal from Connersville to Cambridge City for the bonds of the Co. It was a contract, and, to the best of my opinion, nothing else.

Ques. 42. Was more than half of the work on the line from Con-

nersville to Cambridge City included in Vallette's contract? (Pl't'ff objects to the question. Johnson, Judge.)

Ans. I do not know how much was included in the contract. It did embrace all of the work between those points.

Ques. 43. Does not the contract of the Co. with Vallette express all the risk taken by him? And did not his sub-contractors take the same risk? (Pl't'ff objects. Johnson, Judge.)

Ans. I think the contract does express the risk taken by him. I know nothing about the sub-contractors' risks.

Ques. 44. Did you not regard the financial condition of the Co. at the time of the contract with Vallette as merely temporarily embarrassed. (Pl't'ff objects to this question. Johnson, Judge.)

Ans. I think we would have had to suspend the operations on the canal at that time, if we had not made the contract with Vallette, until we could have gotten means from the sale of real estate, and from stock payments.

Ques. 45. Had the Co. any authority to issue a circulating medium? And was not the issue of it at the time regarded as a clever device to enable the Co. to proceed with the work faster than the subscriptions for stock became available? (Pl't'ff objects. Johnson, Judge.)

Answer. I supposed at the time we issued the scrip or small certificates, that we had authority to do so. I know nothing about a device; we issued them to enable us to go on with the work.

Ques. 46. Have you a recollection of all the various matters discussed before the Board, relative to the proposition of Vallette, and the different modes of raising the money desired at that time by the Co.?

Ans. I have not.

Ques. 47. Were you present at the entire meeting of the Board at which the proposition of Vallette was presented and accepted?

Ans. I cannot recollect whether I was there the whole time or not, but was present when the proposition was made and accepted.

Ques. 48. Were you present at the first meeting of the Board, at the time above named in Ques. 47? (Pl't'ff objects to this question. Johnson, Judge.)

Ans. I think I was.

Ques. 49. Does the report of the secretary of the Co. July, 1844, contain the truth in relation to the affairs of the Co., and particularly in reference to their means and liabilities?

Ans. I cannot say. I don't remember whether I ever read it all or not.

Ques. 50. Did the stockholders generally know that the terms of the contract with Vallette secured to him double the cash estimate of the engineer, or thereabouts, for the work embraced in his proposition?

Ans. I do not know what they knew or thought about it.

Ques. 51. Did the Directors have any knowledge of the manner that the work embraced in the contract with Vallette was done?

Ans. I do not know that they had, only as reported to them by the engineer.

Ques. 52. Was not Mr. Moore, the engineer, under the pay of Mr. Vallette at the time of said contract, or interested therein?

Ans. If he was, I did not know it.

Ques. 53. Was the work embraced in the contract or proposition of Vallette performed by sub-contractors?

Ans. I think he subbed out part, if not all of his work.

Ques. 54. Did you know that the tumble walls of every lock embraced in Vallette contract were not put up according to the terms of said contract; and that one or two *two* of them have fallen down in consequence thereof; and that in every other instance they had to be propped up to keep them from falling?

Ans. I do not know anything about it.

Ques. 55. Did the Company hold a large amount of real estate (unsold) in July, 1844?

Ans. The Company had a considerable amount of real estate not sold at that time—how much, I do not know.

Ques. 56. Was not the canal originally located so low that it is now deemed almost, if not quite impossible to make it permanent against the high waters that have visited the Valley, and laid waste the canal at three (3) successive periods?

(Plaintiff objects to question. Johnson, J.)

Ans. My opinion has been, since the freshet of 1847 that the canal was located too low—in other words, if it had been located higher, it would have been much less expensive to keep it in repair.

Ques. 57. Who went to Cincinnati in the summer of 1844 to make a loan as spoken of by you?

Ans. I think it was Mr. Helm, President of the Company, and I cannot now recollect who went with him.

Ques. 58. Did you see the bonds issued to Vallette after they were filled up and signed, in any instance you now recollect? Were they issued under the seal of the corporation?

Ans. I cannot now tell whether I saw them at the time inquired of or not. My understanding is, they were issued under the seal of the corporation.

Ques. 59. What do you know of the canal having broken after it was completed? What was the extent of the breach and the cost of repair? (Plaintiff objects. Johnson, J.)

Ans. On the 1st of January, 1847, it was very badly broken. It took a large amount of money to repair it. I do not recollect the amount.

Ques. 60. What breaks, at the time you speak of, were on that portion of the work embraced in Vallette's contract?

Ans. I do not know; I do not know whether there was any at all or not.

Ques. 61. State who repaired the canal after it was broken, and state whether Vallette did not refuse to do so when applied to for

that purpose; and state what would have been the earnings of the canal if the repairs had not been made, and what the damages to the renters of water-power to their mills or otherwise?

(Plaintiff objects to this question. Johnson, Judge.)

The Canal was repaired after it was broken, by the Company. I do not recollect whether Vallette absolutely refused to help us, or not. I do not know what would have been the earnings of the canal if the repairs had not been made. It would have been nothing from navigation, but some mills might have been run.

Ques. 62. State if there were other breaks on the canal, and when they were; what was the extent of each several breach, and what the cost of the repair of each break?

Ans. There has been two or three considerable breaks in the canal since that of 1847. I cannot recollect the dates nor the amount it took to repair them. I think no break since 1847 has cost quite so much to repair as that one did.

Ques. 63. State how much it will take to keep the canal in repair each year, as a probable amount.

Ans. I do not know; I have no guess on that subject, as I have nothing to calculate from.

Ques. 64. Were not the estimates of the cost of the work on any portion of the canal by the engineer kept private in all cases except in the one instance of the contract with Vallette? (Plaintiff objects. Johnson, Judge.)

Ans. I do not recollect that they were. I do not now recollect of any other instance in which the estimates of cost were made public. My impression is that we generally referred bidders to the estimate of engineer of the amount of work to be done. I do not (on reflection) remember whether the estimates *the estimates* of cost were kept private or made public. In some cases it is likely they were kept private, and in some cases they were not.

Ques. 65. Was it not a regulation of the Board that the proceedings should be conducted privately, and be so kept afterwards?

Ans. The Board sometimes sat with closed doors, to prevent annoyance by people coming in and preventing the transaction of business, but I do not recollect of any stockholder or other person desiring to see the doings of the Co., being refused an examination of the books, or anything in the office pertaining to the business of the Co.

Ques. 66. Did Mr. Parker draw the contract between Vallette and the company?

Ans. I do not know.

Ques. 67. State whether Vallette did not take your affidavit *ex parte*, to be read on an interlocutory motion in this cause, and state how often he has talked with you about this cause, and about what you would state.

Ans. Yes, he took my affidavit. I cannot state the number of times. He has talked with me several times about the cause, and shewed

me some papers from the office, or copies of papers, he said, in order to refresh my mind in regard to his case.

Ques. 68. Did Mr. Vallette read to you the deposition of Mr. Parker (or a copy of it), taken in this cause by him, before Judge Reed, prior to the commencement of the taking of your deposition, and did he hand to you to examine it yourself? [Pl't'ff objects to this question. Johnson, J.]

Ans. He read to me part of the deposition of Mr. Parker; he did not read it all; and handed it to me to examine.

Ques. 69. When was the work embraced in the contract of Vallette completed?

Ans. I cannot tell exactly, but I think it was completed in September or October, 1845.

Ques. 70. Were any of the bonds in question issued to him after that time?

Ans. I cannot say.

At this point the counsel for the defendant closed his cross-examination, and thereupon, as follows, the plaintiff commenced his

Re-examination.

Ques. 1. In answer to ques. 14 of cross-examination, you say, "the engineer fixed the prices under the direction of the Board." Do you mean to say that the engineer's estimates on the work to be done by Vallette for the Canal Co. were made by order of the Board, or were they made by the engineer himself and reported to the Board? [Pl't'ff objects to this question. Johnson, J.]

Ans. The Board directed him to fix the prices, and he reported them to the Board after he had done so.

Ques. 2. In question 15, cross-examination, you say, "the work amounted to less than the engineer's estimate," do you or do you not mean, that when the work was finished it was found to be less in amount than was proposed for in the original proposition? [Pl't'ff's counsel objects to this question. Johnson, Judge.]

Ans. I do mean so, that the work was found to be less.

Ques. 3. In reference to ques. 37, cross-examination, state whether or not the alteration from the wholesale bid, to an itemized contract, was made for the purpose of procuring the Co. from paying for more work than was done by Vallette? [Def't's counsel objects to question. Johnson, J.]

Ans. That was the object of the Co. in changing the contract.

Ques. 4. In reference to question 31, cross-examination, you say, "the 10 per cent. was kept back from Vallette's estimate to secure the completion of the contract." State whether or not it was a usual practice with the Co. to retain a per centage in their hands on each estimate of contractors until a final settlement: And if so, what that am't generally was.

Ans. I do not know whether the am't retained on each estimate

was kept back till final settlement. I suppose 10 per cent. was kept back until final settlement, as our custom was in all other cases.

Ques. 5. State whether or not the 10 per cent. on Vallette's contract, deducted from his estimates, was kept as with other contractors. (Def't objects. Johnson, J.)

Ans. Yes, sir, it was kept back as with other contractors.

Ques. 6. In reference to question 43, about sub-contractors, state what was the general character for responsibility of sub-contractors on the W. W. V. Canal, in 1845, and state whether or not the canal Co. took the responsibility of Vallette's sub-contractors for the work he did in his contract with the Co. (Def't objects to this question. Johnson, J.)

Ans. I do not know the character of sub-contractors for responsibility. The canal Co. did not take the responsibility of sub-contractors of Vallette.

Ques. 7. In reference to ques. 68, cross-examination, state whether or not Vallette has suggested answers to you in this deposition out of the presence of the Court, and when defendants were not present, or tried in any improper way to influence your testimony in this case. (Def't's counsel objects to this question. Johnson, J.)

Ans. I do not recollect that he has tried by any improper means to influence my answers. He showed me Parker's deposition before I was affirmed.

This deposition was by me carefully read to the deponent, and being by him declared correct, was signed in my presence.

N. H. JOHNSON.
MILES MURPHEY.

And now, at 4 o'clock and 40 minutes P. M., Wednesday, Oct. 31st, 1855, the taking of deposition in this cause is closed,

JOHNSON, *Judge.*

STATE OF INDIANA,
Wayne County, sct.

To the Judges of the Seventh Circuit Court of the United States, in and for the District of Indiana.

I, Nim H. Johnson, Judge of the Court of Common Pleas, in and for the District composed of Wayne County, Indiana, do hereby certify that on Thursday the 25th day of October, 1855, between the hours of 8 o'clock A. M. and 6 o'clock P. M. of said day, at the office of Dr. Johnson, in the Conklin Building on Main Street, Cambridge City, Wayne County, Indiana, in pursuance of the annexed notice, and the agreement of the parties thereon endorsed, I commenced taking the above and foregoing depositions of John Crum and Miles Murphey, and continued the taking thereof at the same place and within the same hours of each day on the 26th, 27th, 29th, 30th, and 31st days of said month, as noted from time to time

in the body of said depositions, which were taken, subscribed, and affirmed to (being by me first carefully read over to the witness before signing) before me and in my presence, and in the presence of Henry Vallette, complainant, and during a portion of the time in the preesnce of Oliver P. Morton, Esq., attorney for said complainant, and in the presence of James A. Fay, Esq., attorney for the defendant, and A. B. Conwell, Esq., President of the White Water Valley Canal Company, to be used in evidence on behalf of the complainant on the hearing of the cause mentioned in the caption. I further certify that each of said witnesses was by me carefully examined, and cautioned and affirmed to testify the truth, the whole truth, and nothing but the truth, in relation to the matters in controversy between the parties named in the caption, before testifying.

I further certify that each of said depositions was reduced to writing by myself in the presence of each of the deponents, except Question 22 on the Cross-examination of John Crum, which was written by James A. Fay, Esq., in my presence and by my request, and the answer to Question 32 on the Cross-examination of the same witness, which was written by Dr. Johnson, a disinterested person, not of kin to either party, in my presence and by my request.

I further certify that the annexed Exhibits, marked A, AA, C, and DD, Nos. 1, 2, 3, and 4, are the ones testified to by the witnesses, and by me attached to these depositions.

I further certify that I am not of counsel of either party, and am not interested in the event of the suit. All of which is duly certified in conformity with the laws of the State of Indiana and the act of Congress in such case made and provided.

In testimony whereof I have hereunto set my hand this 31st day of October, 1855, and caused to be affixed hereto the seal of the Court of Common Pleas in and for the District of Wayne County, Indiana.

[SEAL.] NIM H. JOHNSON.
Judge of the Court of Common Pleas in and for the District composed of Wayne County, Indiana.

This certifies, that Henry Vallette has worked out per his contract with the White Valley Canal Company, thirteen thousand five hundred and forty-five dollars, from which the company retain 10 per cent, which leaves to be adjusted at this time twelve thousand one hundred and ninety dollars per mem. below. The company has granted him their bonds Nos. 1 to 12, twelve bonds for one thousand dollars each bearing interest at the rate of seven per cent. per annum, all dated this day. The balance, one hundred and ninety dollars and fifty cents, is due to said Vallette at the same time, and at the same rate of interest as the bonds.

Witness my hand this 29th October, 1844.

L. B. TUPPER,
Sec'y.

Memo.

Estimates	$13,545
Retained 10 p. c.	1,354 50
	12,190 50
12 Bonds, No. 1 to 12, $1,000 ea.	12,000
	190 50

D. D. No. 1, R. G. HEDRICK.

This certifies, that Henry Vallette has worked out per his contract with the White Water Valley Canal Company, twenty-five thousand four hundred and fifty dollars, from which the company retains 10 per cent., which leaves to be adjusted of this estimate twenty-two thousand nine hundred and five dollars, to which is added one hundred and ninety $\frac{50}{100}$ dollars, being balance due him at Oct. 29th, estimate making in all to be now adjusted, PER MEMO. BELOW, TWENTY-three thousand and ninety-five dollars and fifty cents.

The company has granted him their 23 bonds, No. 13 to 35 inclusive, for one thousand dollars each, bearing interest at the rate of seven per cent. per annum, all dated this day. The balance, ninety-five dollars and fifty cents, is due to said Vallette, at the same time and same rate of interest as the bonds.

Witness my hand this 6th Jan'y, 1845.

L. B. TUPPER,
Sec'y.

Memo.

Estimate	$25,450
Less 10 per cent. retained	2,545
	22,905
Balance Oct. 20th, estimate	190 50
	23,095 50
23 bonds, No. 13 to 35, for $1,000 ea.	23,000
	95 50

DD. No. 2. R. G. HEDRICK.

Office White Water Valley Canal Co.
CONNERSVILLE, 13th March, 1845.

This certifies, that Henry Vallette has worked out per his contract with the White Water Valley Canal Company, twenty-one thousand five hundred dollars, from which the company retains 10 per cent., which leaves to be settled for at this estimate, nineteen thousand three hundred and fifty dollars. The company has granted him their nineteen bonds, No. 36 to 54 inclusive for one thousand dollars

each, all dated 1st Feb'y, 1845, bearing interest at the rate of 7 per per cent. per annum.

The balance, three hundred and fifty dollars, is due to said Vallette at the same time, and same rate of interest as the bonds.

Witness my hand.

L. B. TUPPER,
Sec'y.

Memo.

Estimate	$21,500
Less 10 per cent. retained	2,150
	19,350
19 bonds, No. 36 to 54, inclusive, $1,000 ea.	19,000
	350

DD. No. 3. R. G. HEDRICK.

OFFICE WHITE WATER VALLEY CANAL CO.
Connersville, 22d May, 1845.

This certifies that Henry Vallette has worked out per his contract with the White Water Valley Canal Company twenty-eight thousand seven hundred and five dollars from which the company retains 10 per cent., which leaves to be settled, at this estimate, twenty-five thousand eight hundred and thirty-four $\frac{50}{100}$ dollars. To this amount is added (per mem. below) four hundred and forty-five $\frac{50}{100}$, being amount of balances of former estimate, amounting to in all to twenty-six thousand two hundred and eighty dollars. For this the company has granted him their twenty-six bonds, No. 55 to 80, inclusive, for $1,000 each, all dated 1st Feb., 1845, bearing interest at the rate of seven per cent. per annum. The balance of two hundred and eighty dollars is due to said H. Vallette at the same rate of interest as the bonds.

Witness my hand.

L. B. TUPPER,
Sec'y.

Memo.

Estimate 21st May,	28,705 00
10 per cent. retained,	2,870 50
	25,834 50
Add balances former estimate,	445 50
	26,280 00
26 bonds for $1,000 each,	26,000 00
Bal. still due,	280 00

R. G. HEDRICK. DD. No. 4.

Mr. Vallette agrees to supply the materials and complete, at his own expense, Section Nos. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126; Feeder 127, 130, 132, of the White Water Valley Canal, agreeably in all things to the plans and specifications exhibited to him by Mr. Moore, the chief engineer of the company, within one year from the 1st day of September next, weather permitting, for 125 of the bonds of the company, each for $1,000, upon ten years' time, advancing an interest of seven per cent, payable semi-annually, and he agrees to pay the company a bonus of $500 in their own *own* paper, and in case any change is made by the engineer that may diminish or increase the amount of the work, the matter shall be adjusted by reference, if it cannot be amicably done, to the chief engineer of the company, the details of the agreement to be formally drawn out and executed by the parties.

July 2d, 1844.

(Signed) HENRY VALLETTE.

The company met, pursuant to adjournment; present, same as at adjournment. Henry Vallette present, his proposition in writing marked A, for the completion of sundry section of the canal for the sum of $125,000 (one hundred and twenty-five thousand dollars), in the 7 per cent. bonds of the company, which proposition, after mature deliberation, and all things touching the same being duly considered, is by the company accepted, and the attorney of the company is directed to draw out an article of agreement, in accordance with the spirit of the proposition, for the immediate execution of the parties, which proposition, upon a call for the ayes and noes, is adopted by the following vote:—

Ayes.—Messrs. Claypool, Crum, Hankins, Jackson, Murphy, Reeves, Sinks, and Helm.

Noes.—Mr. Mount.

And now comes the attorney of the company, and presents duplicate copies of the contract with Henry Vallette for the construction of Section No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 130, and 132, Green's Fork feeder, and dam and road bridge on Section No. 114, and Henry Vallette comes also, and the contract being read and fully considered, and it appearing that the details of the contract as drawn out are in accordance with the spirit of the proposition, as presented and accepted, the contract is by the company approved, and directed to be duly executed, which is done.

The above a true copy of Board Journal, page 274 and 275.

W. E. LAWRENCE,
Sec'y.

Specifications of the manner of constructing the White Water Valley Canal, together with the rules for estimating the work done, and notices to bidders. Connersville, Ind. Printed by W. A. Hotckiss, 1842.

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Dimensions of the Canal.

The canal will be at least 26 feet wide on the bottom, and 40 feet wide at the top water line, and will have at least 4 feet depth of water. But these dimensions will be enlarged in all cases where this can be done without materially increasing the cost. The towing path will be 10 feet, and the berme bank 6 feet wide on top, and both banks will have such width at the bottom as will give to the slope a base of one foot nine inches to each foot in height. The banks will be raised at least 2 feet above top water line.

Grubbing and Clearing.

In ordinary line the space to be grubbed will be 64 feet in width, which shall be so situated as to extend 34 feet from the centre on the towing path side, and 30 feet on the side opposite. The pit which will be dug at the root of the tree for the purpose of undermining it, should extend several feet from the body in order that all the roots may be taken out with the tree. A space or strip 20 feet in width on each side of the space so to be grubbed, shall be chopped in such manner that no stump shall be more than one foot above ground. A space 15 feet in width on each side adjoining the low chopping will be high chopped. All timber, roots, chips, brush, and other rubbish, must be removed beyond the outer edge of low chopping or be burned on the line. The width of grubbing or chopping will be increased when from the peculiar situation of the ground, the engineer may deem it necessary. The ground must be entirely cleared before the excavation or embankment can be laid off.

Embankment and Excavation.

Before the embankment is commenced, a space 10 feet in width under the centre of each bank (except where the natural surface is about top water line) must be marked to such depth as may be necessary for the removal of all vegetable or porous earth; and the centre of the space thus marked, a ditch three feet wide and one foot deep shall be cut. The mucking and ditching must be kept at least three chains in advance of the bank, in all cases except at the end of the contract, and in that case it must be extended 10 feet on the adjoining section, unless the contractor on said section shall have previously done it. Embankments must be commenced at full breadth on the base and must be kept at full breadth as they advance in height, keeping the sides at all times at least as high as the centre. No part of the embankment shall be formed by rolling the earth down, either on the side or end from a greater height than two feet. All muck or loose porous earth, or small pieces of stone shall be placed in the outer slope of the bank, and the more solid and water tight materials in the centre or inner part thereof. The centre of the bank for 10 feet in width immediately over the muck ditch, must be composed entirely of the best earth which the adjoining excavation can furnish. No roots can be admitted into any part of the bank. Embankment shall be formed of the surplus excavation which other parts of the section may afford, when this is practicable, without materially increasing the cost of the work, of which the engineer will be the judge. In cases where the embankment cannot be made from the adjoining excavations, and where the ground is not more than four feet below bottom, the earth will be obtained on the inside of the canal, the banks being laid apart for this purpose, and the contracter will not dig pits on the outside of the banks, except by

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the express permission of the engineer. When pits on the outside become necessary, they must be kept at least twenty feet from the outer toe of the embankment. The banks will be raised to such extra height as the engineer may deem necessary, in order that they may stand at the proper elevation after becoming fully settled. In excavation the earth must first be so placed as to form the necessary embankment, and if there be any surplus which is not required for contiguous embankments, it must be placed in such situation and in such form as will cause it to drain from the canal. When the cutting on the lower side is not more than four or five feet, the towing path may be raised to 8 or 10 feet above bottom of canal so that the spoil bank can be kept at least one foot below its outer edge. But if the cutting be of greater depth than this, the towing path will be raised about 2 feet above the natural surface, and the whole of the surplus earth must be place at least 24 feet from the cutting stake, so as to leave a drain between the towing path and spoil bank 2 feet deep and 8 feet wide on the bottom. As often as once in 3 chains, sluices or drains, 10 feet wide on the bottom, connecting with the drain just described, must be left or cut through the spoil bank, in order to carry the water from the canal. On sloping ground all the earth excavated must be placed on the lower side, unless the engineer may deem it necessary to place a part on the upper side, and in that case the same rules will be observed in placing the earth and forming the drain that are prescribed for the towing path side. The engineer having the immediate charge of the line will take entire control in relation to placing the spoil bank and forming the drains and will prescribe more in detail the rules to be observed in each particular case. All detached or solid rock found in the canal must be separated from the earth, and unless required for protection or other purposes on the same section, must be covered on the berme side above the top water line in situations most convenient for loading into canal boats. The which measure two feet or upwards, will be filled separately from the rest.

Locks.

Foundations.

When solid rock is not found at the proper level, the foundation will be composed of timbers laid, as represented on the plan, in good gravel puddle three inches in depth, prepared according to the directions of the engineer. These timbers will be one foot thick, and of any width not less than 10 inches. They will be hewed on four sides, and so nearly square as to give a face on the sides of at least 10 inches. They must be settled with a heay maul until every part of the under side shall rest firmly in the puddle. The spaces between the timbers will then be filled with good puddle well rammed. A course of sheet piling to be formed of 2 inch white oak plank well jointed and battoned, if thought necessary by the engineer, will be

placed across the head of the lock foundation. This must be four feet long so as to extend 3 feet below the foundation timber, and will extend 20 feet each side of centre of canal. The top of the sheet piling will then be secured to the timber by spikes 6 inches long, 2 to each foot. In all cases where it can conveniently be done, this sheet piling will be set in a ditch 3 feet wide, dug for the purpose, which must be well filled with puddle. When the ditch is not dug, the sheet piling will be driven. Over the whole of the above described timber platform a course of 2 inch white or Burr oak plank will be laid, which must be jointed with beveled or water joints, and secured to their places by such number of inch white oak pins as the engineer may direct. The walls of the lock will rest on this floor. The space between the walls from the upper to the lower end will receive a 2d floor of 2 inch white oak plank, jointed as above, both on the ends and sides, and secured by spikes 10 inches long and three-eighths of an inch square, 6 of which will be driven to each 10 square feet of plank.

Cut Stone Walls.

All that part of the walls extending from the lower gates to the lower end of the locks (17 feet below, and also the tumble wing and abutment will be built of cut stone. The face stone will consist of regular courses of equal thickness throughout the whole wall, and not less than nine inches thick. Headers not less than 2 feet wide throughout their whole length, and long enough to reach entirely through the wall, must be placed in every course except the bottom and top ones, not more than eight feet apart in the clear, and their position must be such that those of one course will be over the space between the headers in the next course below. The stretches will not be less than 3 feet long, and at least 18 inches wide throughout their whole length, and must in no case have less bed than face. The faces of the front stone will be neatly dressed with the bush hammer, and great care must be taken to have the corners perfectly square. The beds of the stone must be dressed to a true and smooth surface, perfectly full to the square, so that no stone will be any thinner at the back than at the face. The end joints will be cut full to the square for at least 1 foot back from the face. The coping will not be less than 1 foot thick, 3 feet wide, and in blocks not less than 4 feet long, and as much longer as the quarries will afford; and will be neatly cut on top. The backing will be composed of sound and well-shaped stone of uniform thickness. None shall be less than 5 inches thick, and in no case will there be more than 2 courses of backing to one of face stone, and if practicable but one. The headers will be not less than 8 inches thick and 13(?) inches wide throughout their whole length, and long enough in all cases to reach to the back side of the face stone. These will be laid so that one header from the back will come into each space between the headers in the face wall. No stone will be permitted to be used for backing of less su-

perficial area than 3 square feet, except such as are required to fill the cavities that unavoidably occur between the large stones.

Rules in detail for laying stone cut masonry, face stone.

Before commencing a course of face stone, the course beneath must be very accurately trimmed so as to be brought to a perfect line. The face stone will be brought on to the wall and placed on rollers of 3 inches diameter, over the bed in which they are to be set. In preparing to set the stone, the first step will be to wet the under bed of the stone to be laid by dashing water up against it with a cup. The top of the wall will also be thoroughly wet. A bed of soft mortar made of water lime will then be spread of equal width with the bed of the stone to be laid. The stone will then be let down to its place by withdrawing the rollers and placing thin taper wedges under the back of the stone so as to let the stone touch first on the front of the wall. The back edge of the stone will then be lowered until the face is plumb. The back of the stone (if at all slack) to be wholly supported by mortar and not be spawls as has been sometimes practised. If the stone be too slack in the bed to be laid without spauling up, it must be taken out and reduced to a thinner course. The end joints will not be mortared, but will be brought so close as to hold the grout without any mortar, but if in case the joints cannot be made to hold close enough to hold the grout, they may be made tight by pointing in front. Before leaving the stone as finished, the back part of the end joints will be plastered up with common mortar so as to retain the grout in them. The end joints will then be filled with water lime grout before the backing is commenced. This being done, the whole course will be backed up agreeably to the following specification:—

Backing.

Each backing stone will be laid with its best or truest bed down, and its position will be selected so as to require very little, if any chinking up with spawls. Only one course of backing to each course of face stone will be allowed, except in cases where the engineer from the character of the quarries may deem it necessary to admit of 2 courses. The top of the backing will in no case be left lower than the face stone, but may be raised 102 inches higher, if the thickness of the stone be such as to require it. In case the backing be higher than the face, it will be spauled off with a pick, where the back end of headers in the next course are to lie, so as to prepare a level and firm bed for the header without the necessity of filling under with spawls, which cannot be allowed under any portion of the face stone. The interstices between the main backing stone will be filled with only the larger class of spawls, and the smaller class of spawls, or chips, which are apt to obstruct the passage of the grout, must be wholly excluded. The contractors must not carry on more

than one course at the same time; but where a course is commenced, it must be extended, at least throughout one side, and be backed up for the whole length, and then inspected and approved by the engineer before the grouting can be commenced. This course on one side of the lock will then be grouted and trimmed, whilst the masons are setting and backing up the same course on the other side of the lock. The embankment and puddle must in all cases be kept at least 3 inches below the top of the wall, and great care must be taken to keep the walls perfectly clean by frequently sweeping off any sand, gravel, or earth that may get on them.

Grouting.

Good quick lime recently burned will be placed in a large grout box on the wall, and as much water added thereto as will be necessary to give the grout the proper consistence. As much sand of approved quality will then be added as can be kept afloat and be intimately blended with the lime. The lime must not be slaked until placed in the grout box. Water must not be added after the sand shall have been introduced. When properly mixed, the box will be emptied rapidly into the wall by hoisting a sliding gate, and must be constantly stirred while running out. The stone and sediment must be carefully removed from the bottom of the box before it is again filled with grout. Immediately before letting out each box of grout, the wall to be grouted must be thoroughly wet. This requirement to wet the wall must be rigidly complied with. The contractor will be required to employ a faithful and careful hand to do the grouting, who shall be approved of and carefully instructed in his duty by the engineer. The person so selected and instructed must have the whole charge of the grouting, and will be continued at the grout box until the lock is completed, or so long as he shall perform his duty faithfully and give satisfaction to all parties.

Dry Walls.

These will extend from the lower gates to the head of the locks. They will be placed 17 feet apart; their height may be known by adding 5 feet 8 inches to the left of the lock, and their thickness will be such as the engineer may deem necessary in each case to sustain the pressure of the adjoining embankment. They will be formed of coursed rubble masonry laid without mortar or grout, in such manner as to form the most perfect bond that can be given to a dry wall. The stone will be arranged into regular courses, each course being as nearly of the same thickness throughout its whole length as is practicable with uncut stone. The face stone will be, however, dressed, so as to form good beds, and the front of the wall must be built perfectly straight and vertical. In procuring stone for the walls great care must be taken that they be well shaped and of the greatest thickness that the best quarries of the country will furnish, and none will

be received of a less thickness than 4 inches. No stone of less dimensions than 2 feet by 18 inches can be admitted into any part of the wall, except for the purpose of filling the cavities which unavoidably occur. Headers not less than 4 feet long, 20 inches wide, and 6 inches thick, will be placed 6 feet apart in the clear in each course both in the front and the back of the walls; the headers in the back being central between the front headers; and every header must, when practicable, be crossed by a stretcher, both in the course next above and below it. The headers in the back must, in all cases, be long enough to reach to the rear side of the front stone. And in all cases where the walls are not more than 5 feet thick, the headers in the front must be long enough to reach entirely through the wall. The stretchers will be not less than 2 feet long and 15 inches wide. The walls will be finished thick, to be neatly crossed on the top and closely jointed on the edges.

Iron Rods.

In building the walls a tier of iron rods will be inserted about 3½ feet below the top of the wall, and 4 feet apart, horizontally extending 3 feet into the stone work, and projecting 9 inches from the wall. The outer end of the rods will be provided with a key hole to receive a key of proper size. To secure the rod firmly in its place, a large stone not less than 10 inches thick will be bedded in the wall as an anchor, over which the rod will be bent with the turn resting on the back of the stone. The rods will be 1 inch square, and will require 4 feet bar each, excepting those for hollow quoin and recess posts, which require greater length.

Upright Timbers.

The walls being completed, upright posts of white oak timber, 7 by 9 inches, will be placed against the walls (except below the lower gates) four feet apart from centre to centre, and secured at the top by means of the iron rods just described, and at the bottom by being framed into a sill 9 by 9 inches, placed at the base of the wall for this purpose. These sills will be laid on the foundation timbers before the plank are put on, and will be pinned to every fourth timber with a white oak pin 1½ inches in diameter and 18 inches long. The floor of the lock will also be laid between them for the purpose of holding them to their places. A cap 10 by 12 inches will be mortised on the tops of the posts extending throughout the whole length of the walls, the lower front corner of which will be rabbeted 2 inches to receive the plank. The recess posts will be 12 by 28 inches, and will be rabbeted on both the front corners to receive the facing plank. The hollow quoin posts will be 16 by 28 inches. They will be secured in the recess left for them in the wall by being mortised into the lock sill at the lower end, and fastened by an iron rod at the top in the same way other posts are fastened. The hollow quoin will

be cut out of the front of the stick to the proper pattern, and the upper and lower front corners rabbeted to receive the ends of the facing plank.

Plank Facing.

After thus preparing and securing the proper number of uprights, the whole length and height of the walls as far down as the lower hollow quoin will receive a course of white oak boards, well jointed with a bevel joint and secured to the uprights with the requisite number of 20 penny nails. This first course must be put on before the last floor is laid in the lock, and the floor must be laid before the last course is put on the sides. The whole extent of the wall will then receive a second course of two inch white oak plank, well jointed with a bevel joint, and to be so arranged as to perfectly break both the side and end joints of the first course. The whole plank facing will then be firmly secured to the uprights with wrought spikes 7 inches long and three-eighths inch square with a large head, passing through both courses of plank, and 4 inches into the post. Four spikes to the foot rise will be driven into each plank upright. Both the plank and boards must be choice stuff, perfectly free from knots, and must be well seasoned. The caps, together with such uprights as are exposed to view, shall be neatly counterhewn and planed, and the whole of the uprights and caps must be selected timber.

Breast.

The breast will be formed of a single course of oak timber 12 inches square laid across the head of the lock, resting against the walls. It will receive one course of 2 inch white oak plank on the lower side. The breast of the tumble will be composed of timbers of the same kind, resting in recesses of one foot each left in each of the walls to receive them.

Sheet Piling.

A course of sheet piling, to be composed of one course of 2 inch and one course of 1 inch plank, laid so as to break joints, will be put on the upper end of the lock walls, extending in height from bottom walls to top of water line on the upper level, and in width to 20 feet each side of centre of canal. This will be secured to the breast timbers, some of which are made long for the purpose, and to timbers built in the upper part of the walls, at a proper level, by spikes 6 inches long and $\frac{1}{4}$ inch square. This sheet piling will be so placed as to come immediately over the sheet piling put in below the foundation.

Cribs at Head of Lock.

After the breast timbers and sheet piling at head of the lock are laid, 4 foundation timbers, 30 feet long, will be laid at the level of 1

foot below bottom on the upper level. On these, at each side of the lock, 15 feet apart, cribs will be built, forming the head of the upper recess. They will be 15 feet long, 7 feet wide, and 6½ feet high. They will be composed of timbers 12 inches square, laid close together by notching each stick 6 inches. Each stick must be thoroughly pinned, with pins 2 inches in diameter, to the one below it. The sides will be tied together by one round tie in each course, at least 10 inches in diameter, dovetailed into each side stick. The three upper courses will be of oak timber. After the cribs are built they will be filled with loose stone or gravel, as the Engineer may direct. The space between the cribs will receive one course of 2 inch plank.

Crib at lower end of Lock on Towpath side.

This will be 20 feet long, and 7 feet wide at upper end, and 6 feet at the lower end. It will be carried up at the lower end to the level of the top of the towing path on lower level, and at the upper end to the top of the lock walls. It will be built in the same manner of those at the head of the lock.

Mitre Sills.

These will be made of white oak timbers, and will be 18 inches square. The sills for the upper gates will lie on the first floor of the lock. Those for the lower gates will lie in a recess 18 inches deep, sunk for the purpose in the foundation, so that the top of the sills will just come to the bottom of the canal. Both the upper and lower mitre sills will be framed and bolted as represented on the plan. 7 bolts, 1 inch square and 2½ feet long, will be driven into each set of sills.

Lock Gates.

These will be framed in the usual manner, and will be of such height that the top of the upper arm will be 4½ feet above bottom on the upper level, and the lower arm or rib will shut against the mitre sills 6 inches. There will be a set of T's and L's on the lower side of the gate only, which will be secured with bolts passing through the gates, with the nuts on the upper side. Each gate will be provided with one of Ring & Livingston's patent cast iron paddle gates, 2½ feet square. The rods which turn the paddle gates will be 1¾ inches in diameter, and will be secured to the gates by clamps or staples ½ inch square, passing through the gates and fastened on the opposite side with a nut. The band which passes over the end of the balance beam will extend down the toe post, and be joined or welded to the T which is on the upper rib of the gate. The collars which fasten the gates to the walls will be secured to the walls in such manner as the Engineer may direct. Each paddle gate rod will be provided with a wrench or handle, 4 feet long and 1½ inches

in diameter. The balance beams will be put on so that the small end will just come above the top of the coping when the gates are open, and the under side of the large ends will be 2 feet above the top of the walls.

Snubbing Posts.

Each lock must be provided with two snubbing posts, 7 feet long, and at least 10 inches in diameter. They will be placed at such points as the engineers may direct, and must be sunk into the earth 4 feet, and be firmly secured in an upright position.

Aqueduct Foundations,

Where rock does not occur, will be formed of two courses of timbers laid in contrary directions as closed together as they can be placed. The timbers will be hewed on four sides, and must be 12 inches thick, and not less than 10 inches wide. The pits for the foundations must be sunk so low as to leave the tops of timbers at least one foot below the lowest water in the bed of the stream crossed. When the span of the aqueduct does not exceed 40 feet, the lower course of timbers will extend across the whole bed of the stream, and a course of sheet piling at least 3 feet long must be driven at the up-stream side, extending across the whole foundation; a course of two inch oak plank will be put under the walls.

Culvert Foundations

Will generally consist of one course of timbers 12 inches square, laid also together, long enough to extend under both walls of the culvert. They will be secured at the ends by sheet piling, as the engineer may direct. The foundation of dam abutments will be similar to those of culverts, and both will be covered under the walls with one course of good two inch oak plank.

Dam Abutments and Wing Walls of Culverts.

These will be made of coursed hammer-dressed masonry, laid in mortar, and thoroughly grouted. The courses of faced stone to be not less than 6 inches thick. The beds and joints of the face stone will be well dressed with a hammer, so as to make close joints. The faces will be left rough as they came from the quarry, except that they will be pitched off on the edges to make the joints. In procuring stone for the walls, great care must be taken that they be well shaped, and of the greatest thickness and size the best quarries of the country will furnish, and none will be received or be permitted to be used of less dimensions than 2 feet by 18 inches, or of less thickness than 4 inches, except for filling small cavities which unavoidably occur. Headers not less than 4 feet long, and 20 inches wide, will be placed not more than 6 feet apart in the clear in each course,

both in the front and back of the walls, the headers in the back being central between the front headers; and every header must, when practicable, be crossed by a stretcher, both in the course next above and below it—provided, that where the wall does not exceed 5 feet in thickness, the front headers must be long enough to reach entirely through it, and the back headers must be long enough, in all cases, to reach the rear side of the front stone. The stretchers will not be less than 2 feet long, and 18 inches wide. The coping will be from 2 to 3 feet wide, as may be directed, and not less than 18 inches thick, and neatly dressed on the top and closely jointed on the edges. In laying, the bed for the face stone will be prepared by spreading on a coating of soft mortar extending back from the front the full width of the stone to be laid, on which the stone will be laid and sitted with a heavy mall until the prominent points bear firmly on the stone beneath, pressing out all the superfluous mortar, and leaving only so much as will fill the cavities. The end joints will also be filled with mortar for the same distance back. The backing will be laid without mortar, and in such manner as will form the strongest bond that can be given to unhewn stone. After the backing of a course is completed, and the embankment and puddling raised, the whole wall will then be completely filled with well wrought grout. The wall will be grouted every course, however thin the stone may be. Immediately before letting in the grout, the whole wall must be thoroughly wet.

Rubble Arches.

The body of the arch for culverts of less span than 20 feet will be formed of regular ranges of undressed stone, not less than 4 inches thick. The ring stone will be at least 6 inches thick, and will be well cut on the beds, so as to make true joints. They must be alternately long and short, so as to form a bond with the body of the arch, the longest being about 3½ feet, and the shortest not less than 2 feet. Every arch stone must be of sufficient dimensions one way to extend through the whole depth of the arch, and as long in the other direction as possible. The beds of the stone will be mortared throughout their whole width, except near the crown of the arch where the mortar will extend for 6 inches from the lower edge, and the remainder of the joint will be filled with grout.

Cut Stone Arches.

The arch stone or sheeting for all culverts of 20 feet space or upwards, will be cut truly on their beds, so that they will form perfect segments of the required arch, and will be laid in regular ranges of uniform thickness throughout the whole length of the culvert. The thickness of the course may vary from 8 inches to 2 feet. The ends of the arch stone will be truly cut, so as to form a joint for the whole depth of the sheeting; a small draft will be run around the

lower face of the arch stone, and the space included within this draft may be left with the quarry face if it does not project more than 2 inches below the draft. The blocks of which the arch will be composed must be not less than 2½ feet long, and of a width corresponding with the depth of the sheeting. The ring or end stone of the arch will be cut in like manner with the body of the arch, with a draft rim around their end faces. They will be alternately 2½ and 4 feet long, so as to form a strong bond.

Aqueduct Masonry.

The face stone will consist of regular courses of not less than 5 inches thick, and of uniform thickness throughout their whole length. The stone designed for the outside corners of the abutments, and as for a point 2 feet under the sides of the trunk, and also for the upper and lower ends of the piers to the same point, will be selected of the largest and best stone that the quarries will furnish, and will be cut on their beds and joints, and laid as well as is required for stone cut masonry, the faces being left rough as they came from the quarry. The inside corners of the abutments around to their connection with the slope of the canal banks, from a point one foot below the bottom of canal to the top of the wall, and also the inside of the piers from the same point to the top, will be cut in the same manner as is required for cut stone masonry in the locks. This part of the walls will be laid in water lime. The remainder of the abutment and piers, and also the wing walls, will be of coursed rubble masonry, made of the same kind of stone, and built in the same manner that the abutments of dams and wing walls of culverts are required to be built. The wings and parapets will be furnished with a coping 2½ feet wide, not less than 8 inches thick, and in pieces at least 4 feet long, dressed and put on in the same manner of the coping on the cut stone part of the locks. The abutments and piers have a similar coping, large enough to cover the whole top surface.

Mortar shall be composed of clean sharp sand and good, newly burned quick lime; the proportion of each to be determined by the engineer. The same shall be washed or sifted when the engineer may deem either or both necessary in order to separate it from the pebbles or loam with which it may be mixed. The mortar must be thoroughly mixed, and must be made at least one week before being used.

Puddle.—Gravel, together with a small portion of clay or loam, shall be spread on in a regular layer, not more than 6 inches thick, which will be wet and thoroughly mixed by treading with horses or oxen, or by ramming with hand-spikes. Another layer of the same material, and of the same thickness, will then be spread on, and the process of wetting and mixing be repeated.

Notice to Bidders.

Propositions must state a price for each item of work given in the estimates, which will be understood as covering all expenses. Grubbing and clearing will be estimated by the chain in length, measuring the whole length of the section, and extending the price specified in the contract to each chain alike, without regard to the relative amount of work to be done on the several chains, and without regard to the breadth to which the line is to be grubbed and cleared; and the price bid will be understood to cover the whole cost of all the grubbing and clearing done on each chain. The price bid for excavation will be understood to include all the various kinds of earth which may be found in the section, together with all detached rock which measures less than $\frac{1}{4}$ of a foot each. The price bid for detached rock will apply to such as measure one-fourth of a cubic foot or upwards, and will include the cost of separating them from the earth and piling them on the berm side of the canal. The price bid for solid rock will apply only to such as absolutely requires blasting in order to remove it, of which the engineer will be the judge. At the bluffs, where the rock excavated will be required for protection on the same section, no rock excavation will be paid for, though it may be found within the trunk of the canal. In such cases the price bid for protection will be the only compensation for removing and placing the stone. The price bid for embankment must cover the whole cost of the work under the following regulations, to wit: The bank will be measured in all cases after it has become fully compact, and where a bank is to be accepted before the earth is fully settled, the contractor will be required to raise it as much above the ordinary height as the engineer may deem necessary, when embankments can be formed from contiguous excavation they shall not be paid for unless the earth used be removed more than 2 chains, measuring in the direction of the canal. Embankments must be formed of the surplus excavation in adjoining portions of the canal, when this can be done without materially increasing the cost of the work. In full embankments, where the ground is not more than four feet below the bottom of the canal, the engineer will place the banks of the canal so far apart as to give sufficient earth within them; and the contractor will be allowed to dig pits on the outside of the banks only where the engineer may direct it. No extra allowance will be made for the necessary grubbing to procure earth for an embankment. Embankments must, in all cases, be commenced at the full breadth on the base, and must be kept at full breadth as they advance in height, keeping the sides at least as high as the centre. The engineer must be understood as having the right to prescribe, in detail, the manner of forming embankments, and to give such rules in relation to placing the earth, as in his opinion will tend to increase its solidity and safety. The price bid for excavation of culvert or lock-pits must cover the cost of bailing or

pumping water where this may be necessary. The price bid for lock masonry will include only the cost of the masonry itself, the foundation, gates, and plank facing being paid for in addition. The price bid in gross for the lock gates will cover the cost of the cast iron paddle gates, together with every other necessary fixture. The price in gross bid for road bridge will cover all the expenses necessary to fit it for travel, excepting the embankment, which is paid for by the cubic yard. The price bid for timber in the lock foundation, will be exclusive of the cost of puddling. The price bid for stone culverts will include the cost of centring, lime, sand, &c. The price bid for timber in the various mechanical structures will cover the whole cost of furnishing, delivering, counter hewing, framing, raising, and trenailing. The price bid for plank will include the cost of delivering it on the ground, jointing, laying, &c. The price bid for iron will include the cost of furnishing, working, and driving, and will apply to every variety and form of iron work that may be used in the various structures. All stone work, whether laid as masonry or protection, will be estimated by the cubic yard. All stone which may be excavated from the canal will be the property of the company, unless the contractor should need them for his work. Every part of the work connected with the canal will be subject to the most rigid inspection of the engineers, and the contractors will be expected to conform in all respects to their directions. Bidders to whom locks, dams, aqueducts, or culverts, may be assigned, if not themselves good mechanics, will be required to employ one to superintend their structures, who shall be approved by the engineer. The quantities of excavation, embankment, masonry, &c., may, upon a more careful examination, and the measurement of the work, vary from those now exhibited, but this shall not furnish ground to claim an extra price per yard. In case where a contractor fails to prosecute his work in such a manner as to afford satisfactory evidence that it will be completed by the time stipulated, the right is reserved to the company to place an agent thereon, who shall employ hands, and complete the work; the expense of which being charged to the contractor. Contractors will be held liable for the payment of all labor done on their several sections, whether the laborers be engaged by the contractors themselves or by sub-contractors; and the company expressly reserves the right to retain any moneys due to the contractors for work done on any section, and pay the same to laborers who may have done work thereon, in all cases where the contractors shall neglect or refuse to pay such labor, on reasonable notice being given for that purpose. Contractors will be expected to superintend their work in person. The sub-contracting of any part of the work without the consent of the engineer, will subject the contractor to the liability of forfeiting his contract at his option. Contractors must first endeavor to procure the necessary timber and stone by purchase; but when this cannot be done, the company will, if they deem it necessary, authorize the contractor, under the provi-

sions of the charter, to take such materials, the contractors paying the damages which may be assessed. In grubbing or clearing any part of the line, contractors will not be allowed to deposit timber, roots, or brush on the adjoining lands, contrary to the expressed wish of the owner, but must burn all on the ground, or place it on the outside stakes; nor will they be allowed to obstruct any public road without first opening a new one. The cost of the new road to be paid by the company. Contractors will not be allowed to commence operations within any inclosure on which a crop is growing, until sufficient time shall have elapsed for the removal of such crop, after it has become fit for gathering. All mason work, requiring the use of mortar or cement must be laid between the 1st day of April and this 15th of October. All work will be at the risk of the contractor until the job is finished and accepted. Sections which may be finished later in the season than the 10th of November, will not be received until the 1st day of April, next ensuing, at which time the injury which the banks or other parts of the work may have sustained during the winter, must be repaired at the expense of the contractor. The chief engineer reserves the right of making any alterations in the course of the canal line, the level, or in the places, materials, or manner of doing any of the work, which economy or further observation may, in his opinion, render necessary or expedient. And whenever, in the opinion of the chief engineer, the amount or value of any work to be performed under any contract shall be increased or decreased by conforming to any such changes or alterations by direction of the company, or any engineer having charge of the work, such increase or diminution, both in the amount and comparative value of the work, shall be determined by the chief engineer, and the sum or price to be paid the contractor shall be increased or diminished accordingly. In making estimates on unfinished work of any kind, or on materials delivered or worked, it must be understood that the chief engineer will estimate, and allow the fair relative value, in proportion to the whole of the work embraced in the contract, of which value he will be sole judge. For any item of work that may occur on any section, for which there is no contract price, the contractor will be allowed such price as the chief engineer may deem fair and reasonable. The hydraulic cement for laying the face stone of cut stone masonry will be furnished by the company to the contractors, delivered at Brookville. They will be charged $37 per barrel for it. One barrel will be required for every 10 cubic yards of cut masonry built. Bidders are notified that no extra allowance, in addition to the contract prices, can, in any case, be made, and are requested to give the work a close examination, so that they may judge correctly in regard to its value. The stone quarries named on the profiles are referred to in order to aid contractors in their examinations for stone. Should they prove insufficient, and the stone be hauled from more distant points, this circumstance will furnish no ground to claim an extra allowance. It is

expected that each contractor will, so far as he can consistently with the successful progress of the work, discourage the use of spirituous liquors by the laborers engaged on his contract; and that he will promptly discharge any intemperate or riotous person when the good of the work or the peace of the neighborhood may seem to require it. The contractors will not be allowed to raise the wages beyond what the engineer may deem sufficient, and a failure to conform to his direction on this subject, will be subject them to a forfeiture of the contract at his option.

H. C. MOORE,
Chief Engineer.

Engineer's Office,
CONNERSVILLE, October 10, 1842.

Depositions of Benjamin F. Reeves, of Rush County, in the State of Indiana, and Henry Goodlander, of Fayette County, Indiana, taken on the 20th day of March, A. D. 1856, between the hours of 8 o'clock A. M. and o'clock P. M. of said day, and continued from day to day, as designated at the office of Reid & Merow, attorneys at law, in the town of Connersville, pursuant to the enclosed notice to be read in evidence in a cause pending in the United States Circuit Court for the district of the State of Indiana, wherein Henry Vallette is complainant, and the White Water Valley Canal Company is defendant, on the part of the complainant, as follows:—

Benjamin F. Reeves, of Rush County, Indiana, of lawful age, being by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the above entitled cause, deposes and says as follows:—

1st Quest. State if you have ever been an officer of the White Water Valley Canal Company; and if so, what offices you have held, and when.

Ans. I have been an officer of that company. I was first elected by the Board as a director in the spring of 1844. I served four years after, from that time I was re-elected regularly after that by the stockholders for the three years succeeding of 1844.

2d Ques. State what you know about a contract having been made by Henry Vallette with the White Water Valley Company; when was it? what was its object? and state *state* also if you regularly attended at the meetings of the Board while you were a director.

Ans. I know that the Board of Directors of the company made a contract with Henry Vallette to complete the canal from Connersville to Cambridge City. I think it was made in the summer of 1844. I seldom, if ever, missed a regular meeting of the Board while I was a director.

3d Ques. State what part you took as a director of the Canal Company, in making that contract; how many directors voted for it, and how many were opposed to it, and whether it was considered an advantageous contract for the company at the time; and state also the financial condition of the company at the time.

Ans. I do not know that I took any part in the making of the contract. I was anxious to have it made, and voted for it; only one member of the Board, Mr. David Mount, voted against it, and all the other members there present voted for it. I think the full Board was present. We thought it an advantageous contract at the time. It was so considered by the Board, and I know that it was highly approved of by the people of Rush County, where I lived. The finances of the company at that time were very much embarrassed, as I understood. The company had a circulating medium which was greatly depreciated.

4th Ques. Name the members of the Board who have deceased since the contract was made.

Ans. Solomon Claypool, David Mount, Daniel Sinks, and Caleb Jackson, members of the Board at that time, have since deceased.

5th Ques. State the effect that the contract made with H. Vallette had on the credit of the company; state what effect it had on the credit and value of their circulating medium; state also what influence that contract had in effecting a completion of the canal; and state whether or not the company were satisfied with the performance of the contract on the part of Vallette.

Ans. The contract made Vallette had a salutary effect on the credit of the company. I think that it increased the value of the circulating medium of the company. The contract, no doubt, caused a completion of the canal at a much earlier period than it would otherwise have been completed. I think that the company were satisfied with the manner in which the contract was fulfilled by Vallette. I never heard anything to the contrary. I was a member of the Board at the time of such completion.

The work was done, as I understood, by Vallette, under the direction of Henry C. Moore, the company's engineer, who was paid by the company; and the work was accepted by said engineer for the company, and Vallette was paid from time to time in bonds, as the work progressed, on the estimates of the engineer.

6th Ques. State whether or not you have heard, or whether or not you know, directly or indirectly, anything about a loan of money from said Vallette to said Canal Company, about the time Vallette made said contract.

Ans. I neither know, nor heard of any such loan of money, nor any loan whatever made by said Vallette to said Canal Company, until after the commencement of this suit.

7th Ques. State whether or not any device or management was intended by said canal company and said Vallette, in making said contract, to avoid the ursury laws of the State of Indiana; and state whether or not Vallette took the usual risks of contractors of said canal company in his said contract.

Ans. I had no hand in any, and do not know of any such device or arrangement being made use of in such contract to avoid the usury laws of the State of Indiana. I was a member of the Board, as before stated, and, from my position, I think I would have known

if anything of the kind had been attempted or intended. I know nothing of the usual risks. I understood that Mr. Vallette, in that contract, occupied the position that other contractors did.

8th Ques. State whether or not that contract between Vallette and the canal company was made in good faith. State what you know about any unfair means being made use of, either by Vallette or any one in his behalf, to obtain said contract.

Ans. So far as I was concerned, the contract between Vallette and the company was made in good faith; and I know of nothing to the contrary but that it was the same with each of the other directors. I know of no unfair means being made use of by Vallette or any one in his behalf to obtain said contract.

James A. Fay, Esq., here appeared for the first time for the defendant. No one previously appearing in her behalf.

Cross-ex. by James A. Fay, Deft's Counsel.

1st Ques. Was the company desirous to obtain a loan about this time?

Ans. I think they were. I heard some talk about it about that time.

2d Ques. Were there any efforts made to obtain a loan, and if so, what efforts?

Ans. I think there was efforts made, but could not speak definitely in regard to them.

3d Ques. Were there not bonds prepared for a loan similar to those issued to Mr. Vallette subsequently. (Objected to by complainant.)

Ans. I have some recollection of bonds being prepared for a loan, but could not say whether they were similar to those issued to Vallette.

4th Ques. What was the difficulty in obtaining a loan? (Objected to by complainant.)

Ans. I presume the difficulty in obtaining a loan was principally the want of credit in the company.

5th Ques. Have you any knowledge or recollection of the transaction between Vallette and the company otherwise than as appears from the papers relating thereto between them?

Ans. I saw and heard many things, I suppose, which I did not get from the papers relating thereto, but I suppose I do not know of anything which is not contained in the papers.

6th. Ques. Do you know under what circumstances Vallette came to Connersville at the time that said contract was entered into?

Ans. I do not know that I could now tell.

7th Ques. Can you state why those bonds issued to Mr. Vallette in that matter are expressed to be for a loan?

Ans. I cannot.

8th Ques. Was the contract with Mr. Vallette one for work simply, or did it embrace in effect a loan?

Ans. I do not know that there was any loan in it; as I understood it, it was a contract to complete the canal from this place (Connersville) to Cambridge City.

9th Ques. If it did not include a loan, how or why were the bonds issued to him as describing a loan. (Complainant objects to the question on the ground of repetition.)

Ans. I understand that the bonds were issued to Vallette to pay him for work done, but don't know why they were issued in that peculiar form.

10th Quest. Would the company have preferred a loan of the money at the time to any contract for work? (Comp't objects to question.)

Ans. I think that they would.

11th Quest. Were fears entertained by the board or any of its members, that if the money was obtained the board would be unable to apply it to that part of the work then unlet, but would be compelled to pay out for work then done, or a portion of it?

Ans. I knew of no fears of that sort being then entertained, at least I now recollect of none.

12th Quest. If the board preferred a loan at the time a contract was made, what is the reason they did not make one instead of a contract for work?

Ans. The reason they did not, is, I presume, because they could not.

13th Quest. Did the board try to make a loan of Mr. Vallette?

Ans. I do not know, but think that they did.

14th Quest. Was it not the object of making the contract in the way that it was made, to secure the application of the necessary funds to the then unlet portion of the canal, and thus obtain the completion of the entire canal, which Mr. Vallette was willing to accept for his security for the funds that he might advance for that purpose?

Ans. I cannot say.

15th Quest. Was it not the effect of the contract made with Vallette to secure the application of the funds necessary to complete the then unlet portion of the canal to its completion? (Compl'ts objects to question.)

Ans. I think it was.

16th Quest. Was it the effect of the completion of this portion of the canal to secure the completion of the entire canal, and thus give Mr. Vallette the security of the entire canal, on the expenditure or advancement necessary to complete the portion of the canal, not let at the time of the contract? (Compl't objects to question as irrelevant.)

Ans. The effect was to secure the completion of the entire canal, and I suppose it would give Mr. Vallette in that way the security on the whole canal.

17th Quest. What do you recollect in regard to the contract with

Mr. Vallette being intended to secure about one hundred per cent., or two dollars for one expended?

Ans. My recollection is, that Mr. Vallette was to have something near one hundred per cent. over the estimate in the bonds of the company. I do not recollect the exact amount, but think it was something near that amount.

18th Quest. Mr. Witness, are you acquainted with the report of the company here shown, and were you a member of the board at the time when made.

Ans. I think I am acquainted with the report here shown marked Exhibit A, A, and made a part of this deposition. I was a member of the board at the time said report was made.

19th Quest. Was the report prepared by a committee of the board, and if so, who constituted that committee?

Ans. I think the report aforesaid was prepared by a committee, but I do not now recollect who constituted that committee.

20th Quest. I think I remember that Mr. Helm was on it, but could not say as to the others.

Re-examined by Complainant.

1st Quest. You say that you think that the company endeavored to effect a loan from Mr. Vallette, what ground have you for thinking so?

Ans. One reason for my thinking so, was, that the company were trying to make a loan at that time, and I have an indistinct recollection of hearing of some conversation having been had with Mr. Vallette on that subject.

2d Question. State what recollection you have or what you know of Directors having made a proposition to Mr. Vallette at any time for a loan of money, and what negotiation or proposition of that kind was made?

Ans. I know of no proposition of that kind having been made to Mr. Vallette. I never made any proposition to Mr. Vallette for a loan, and I do not know that the Directors ever made any. I have an indistinct recollection of the matter having been talked about among some of the Directors.

3d Ques. You say that Mr. Vallette was to receive the bonds of the company something like one hundred per cent. over the estimates for the work that he done on his contract. State whether or not the bonds of the State of Indiana were not selling at that time at about 40 cents on the dollar or somewhere thereabouts, as near as you can recollect? State, also, whether or not public securities at that time were not much below par? State whether you think that at the time Vallette took said contract the bonds of the company could have been sold for cash. And if yea, state what you think they would have sold for? (Deft's counsel objects to question.)

Ans. I have no recollection at what time the bonds of the State of Indiana were selling for at the time referred to. I cannot say

whether or not public securities at that time were much below par. At the time of the contract as referred to I suppose the bonds of the company could have been sold for cash, but at a considerable discount, though I could not state what the amount of discount would have been.

4th Ques. State whether or not it was the general understanding among the Directors of the company, at the time Vallette's contract was made, that A. B. Conwell, the present President of the company, was exerting his influence to depreciate its credit? State whether or not said Conwell did not refuse to purchase the paper or scrip of the company at 50 cts. on the dollar or thereabouts in cash? (Deft's counsel objects to question.)

Ans. I do not know anything about the matters inquired of in the question.

BENJAMIN F. REEVES.

Paper referred to in deposition of Benjamin F. Reeve, and marked "Exhibit *A A*."

General report of the condition and business of "The White Water Valley Canal Company," July, 1846.

The canal of this company being now opened for navigation throughout the whole length of its line, and the construction account proper being now soon to be closed, it is supposed that the following facts will not be uninteresting to the stockholders:—

It is now about fifteen years since public attention was first attracted to the construction of this work. The first legislative action is found in "An Act providing means for the Wabash and Erie Canal," approved Feb. 1, 1834, directing the commissioners of that work to cause a survey and location of the canal to be made early in the ensuing summer. On the same day a joint resolution was approved, asking authority from Ohio to survey and locate so much of the route as passes through her territory. The authority was promptly given by the legislature of that State then in session.

In June, 1834, the survey was made from the mouth of Nettle Creek, seven miles north of the National Road, to the Ohio River, at Lawrenceburgh, by Mr. Gooding, a competent engineer.

In the October following, Jesse S. Williams, Chief Engineer, and David Burn, Canal Commissioner, passed down the line gauging the streams and gathering statistics as to the proposed canal, the business features and character of the valley.

Under date of the 31st of the next December, Messrs. Williams and Gooding made a full and very favorable report to the legislature. Among other valuable statements, they estimate the water power that will be created by the canal as equal to 318 pairs of 4½ millstones.

A memorial and joint resolution were immediately adopted, asking

authority of Ohio to construct so much of the canal as would be within her borders.

On the 24th January, 1835, the matter was laid before the Ohio Legislature by the Executive of that State, at the instigation of Oliver H. Smith, who was sent to Columbus for that purpose. The matter was referred to a select committee, the chairman of which was a gentleman of some distinction, residing "at a point on the Miami Canal, at Hamilton." An able communication by Mr. Smith was presented to the committee, and, about the middle of the next month, they reported through their chairman, at great length, concluding with a resolution, "That it is expedient to grant the request of the Legislature of Indiana upon the subject of the White Water Canal." The prominent reason for the resolution suggested in the report was that our produce might be conveyed and our hogs driven "to a point on the Miami Canal at Hamilton, and there shipped!"

Another interesting suggestion was that it is entirely practicable to "make a railroad from a point on the Miami Canal at Hamilton" into the White Water Valley.

The consideration of the resolution was postponed until the first Monday in the December next. On the evening of the 28th January, 1836, a large meeting was held at the College Edifice in Cincinnati, in favor of the grant of the right of way by Ohio. Micajah T. Williams presided, and Robert Buchanan was Secretary. The project was advocated, amongst others, by Chas. Fox, Judges Burnett and Wright, J. Jones, and Gen. Harrison. A memorial to the legislature was gotten up and signed by some six thousand persons, of all parties; and on the 4th of the next March the legislature passed a law giving us the right of way, "Provided said canal be located and constructed on such plan as will, in the opinion of the acting commissioner on the Miami Canal, afford every reasonable facility to this (that) State to connect with and extend a branch canal to the lower plain of the City of Cincinnati; and that the said branch shall be supplied from said canal with all the water that shall be necessary for the navigation of the branch."

Much of the credit for the passage of that law should be given to Henry Morse, then a Senator in the Ohio Legislature, from Hamilton County. On the 1st April, 1837, a charter was granted to "The Cincinnati and White Water Canal Company," by which their branch was completed for navigation in November, 1843.

By that charter it is "Provided that said Company shall not take from any canal, river, or fountain more water than is necessary for the convenient and economical *navigation* of said canal, unless they shall first have obtained the consent, in writing, of every person or persons, corporation or corporations, lawfully claiming the water in any canal, river, or other fountain from which they may draw an *excess* over and above so much as may be necessary for the purposes of *navigation*." Because of the provisions of said law and charter, the Cincinnati Company have finally been induced to obligate them-

selves to pay us one-half the net profits of the water used for hydraulic purposes on their canal.

There is a striking difference between the general canal law of Ohio and Indiana, in reference to the use of water for hydraulic purposes. In that State, it can only be done "*Provided the same shall not in any wise interfere with the rights of individuals.*" Our law is almost a verbatim transcript of that law, with the omission of *the Proviso*, but enacting in lieu thereof, that so soon as the site of any lock, dam, or other structure "shall be determined on, at which there will be any water power created," it shall be the duty of the Board of Internal Improvement to procure the necessary hydraulic ground "for the use of the State." And the Board are directed to condemn the ground for that purpose, if it cannot be had on fair terms. They are then directed to lease water power whenever "there shall *or may be* surplus water over and above the quantity required for navigation" in the canal—any feeder or "dam erected at the expense of the State"—"and where the water shall *or can* be passed around any lock from one level to another without injuring the navigation." Ample provision being made to indemnify all injured. By our charter these powers and immunities are guaranteed to us in the broadest terms. The large amount of land condemned and water power leased by the State at Harrison and Lawrenceburgh, prior to the organization of our Company, presents a strong practical construction of this power by the State.

But to return, on the 6th February, 1834, the General Survey Bill, so called, was passed. That law provides for the appointment of a commissioner to take releases of the right of way, &c., along the line of the White Water Valley Canal, previously surveyed. Gen. Morgan was appointed, and in June of that year passed along the line and took a large number of relinquishments.

On the 27th of January, 1836, the "Act to provide for a general system of internal improvements" was passed. The first named and provided for in the act is the White Water Canal, for which $1,400,000 were appropriated.

This work was assigned to Gen. Long, as a member of the Board of Internal Improvements. On the 7th March, 1836, the first Board met at Indianapolis, and instructed him to put 35 miles of this canal under contract, commencing at Lawrenceburgh.

The first letting was had at Brookville on the 13th September, 1836, at which time the first breaking of the ground was magnificently celebrated by some three or four thousand persons.

The work was vigorously prosecuted and completed to Brookville, 31 miles, at a cost of $664,665.

The Ben Franklin was the first boat that arrived at Brookville, it being on the 8th June, 1839.

On the work north of Brookville, the State had expended $337,569, when the general suspension took place in August, 1839. A large

portion of this last named sum was invested in perishable work and materials furnished along the line.

By the act of February, 1840, treasury notes were created for the payment of contractors. The retained percentage was paid those who would agree to suspend operations until authorized by the State to resume; and all agreeing to relinquish their contracts had their damages ascertained and paid.

During the session of 1840–41 a bill passed the Senate, providing for the resumption of operations on the White Water Canal; it failed in the House for want of one or two votes. And all that was done that session in this behalf, was to incorporate, in a certain law on another subject, a brief provision making it lawful, in general terms, for any individual, company, or corporation to take up and finish, under the direction of the Board of Internal Improvement, any of the unfinished portions of the public works, which may constitute a continuous line, and enjoy the profits of the portion so finished.

Great efforts were made during the year 1841 to do something for our canal under this provision. At Laurel a struggle was made to organize under a charter for a turnpike company, and finish to that point. Connersville, Milton, Cambridge, and the adjacent country, raised some $200,000 of stock and donation subscriptions for a limited partnership company. It was finally agreed by all concerned to let the matter stand, and make an effort to get a proper charter from the next Legislature for the completion of the work.

On the 20th January, 1842, the charter was granted, and the first meeting of the commissioners was held at Connersville, on the 16th February following, at which time James Conwell was elected President, and Henry Goodlander, Secretary of the Board. The charter was unanimously accepted, and stock books were ordered to be opened on the 4th of the next April.

This was a time of extraordinary pecuniary embarrassment. Between the acceptance of the charter and opening of the stock books, a large number of the Ohio and other banks exploded, and our State scrip fell down from near par to about half price. But by extraordinary exertions the complement of $400,000 of stock subscriptions was finally made up at a large meeting held in Connersville on the 17th June, 1842.

The first election for Directors was held 19th July, 1842, and resulted in the choice of Meredith Helm, Miles Murphy, Daniel Sinks, Geo. Frybarger, Ira Lackey, Solomon Claypool, John Crum, James Conwell, and Alexander Dale.

Messrs. Helm, Murphy, and Sinks are still continued members of the Board, being re-elected at each successive annual election. At the election of Directors for January, 1843, John Clifford was elected in place of Mr. Frybarger, who had attended but a few meetings of the Board, and declined a re-election.

On the 2d May, 1843, Ira Lackey, a most zealous and indefatiga-

ble friend of the Canal, having deceased, Williams Petty was appointed to his vacancy.

At the January election, 1844, David Mount, Jacob Daubenspeck, Caleb B. Jackson, and Daniel Hankins, were elected to fill the vacancies caused by the expiration of the terms of Messrs. Conwell, Clifford, Petty, and Dale, respectively.

Mr. Daubenspeck declining to qualify, Benj. F. Reeve was appointed in his place; he and Mr. Jackson are still continued on the Board.

On the 3d September, 1844, Minor Meeker was appointed to fill the vacancy of Col. Hankins, resigned.

At the January election 1845, the only change made was the election of Col. Hankins in place of Judge Mount, whose term had expired.

On the 1st September, 1845, Solomon Claypool, who had been continued a member of the Board from the first, having deceased, Richard Tyner was appointed to fill his vacancy. Mr. Tyner declining, on the 7th October, Mr. Rubottom was appointed to fill the vacancy.

At the January election, 1846, Griffin Taylor, Geo. G. Shoup, and Samuel W. Parker were elected to fill the place of Messrs. Crum, who had continued a member from the first, Rubottom and Meeker, respectively, whose terms had expired.

On the 2d March, 1846, Col. Hankins having resigned, Geo. Davis was elected to fill the vacancy. So the Board is at this time composed of Messrs. Helm, Murphy, Sinks, Jackson, Reeve, Taylor, Shoup, Parker, and Davis.

At the first meeting of the Board on the 25th July, 1842, Mr. Frybarger was elected President, but declining to serve, Mr. Helm was immediately elected to that office, and continued, by successive re-elections, to hold the same until the meeting of the Board for the current year, when upon his declining another election, Mr. Parker was elected.

At said first meeting of the Board Henry Goodlander was elected Treasurer, Henry C. Moore Chief Engineer, Wm. W. Thomas Secretary, and S. W. Parker was appointed Attorney for the company. Mr. Goodlander was also appointed Secretary *pro tem.*, Mr. Thomas declining the office. On the 3d August Jno. W. Hitt was elected. He also declining the office, on the 6th of the same month Lewis B. Tupper was elected. Messrs. Moore, Parker, and Tupper still hold the stations then assigned them. At the first meeting of the new Board in January, 1845, Benj. P. Hegeman was elected Treasurer, to succeed Mr. Goodlander, whose term had expired; which station he now holds.

On the 28th July, 1842, the first breaking of the earth at Cambridge City was magnificently celebrated by several thousand persons.

On the 18th August, 1842, the canal was declared, by the proclamation of the Governor, to be transferred to the company.

On the 25th of the same month, the canal was, by the company, formally demanded of Philip Mason, the agent of the State, and was by him, in behalf of the State, surrendered with all the appurtenances.

The work from Brookville to Laurel was immediately put under contract, and vigorously prosecuted, so that it was opened for navigation, and the first boat, the "Native," arrived at Laurel on the 14th Oct., 1843, being about 15 miles above Brookville.

The work progressed so that the navigation was opened and the first boat, the "Patriot," arrived at the Feeder just below Connersville, on the evening of the 20th June, 1845, being about 10 miles above Laurel.

On the 6th of last October, the navigation was opened through to the national road, and the "Belle of Indiana" arrived in Cambridge on that day, being about 14 miles further, making the distance from Laurenceburgh 70 miles.

The estimated cost of this work by the State was $,567,471. When the construction account is closed on the 1st March next, it will be found that the company will have completed it for a sum less than the estimate, by about $100,000.

When the books were made up to the 1st July inst., the construction account of the company amounted to $459,483. The stock subscribed was $432,000. Stock paid in $354,713, on which certificates had issued for $301,600.

There was then unpaid of the original subscription, $77,282. It will be recollected that this stock was all payable in ten equal annual instalments, the 4th of which only became due on the 1st of March last.

It is believed that not much over $40,000 of the unpaid stock, can be collected; the residue may be resumed by the company without material prejudice, especially if the stock issued on the cost of construction come up to par by 1st February, 1855, the maturity of the debt of $116,000 created for construction. That debt is 7 per cent. stock, and whenere we can declare a dividend of more than 7 per ct. on the cost of the work, there will be no difficulty, should it be deemed expedient, of exchanging the stock of the company for the debt. That we will be able to declare a larger permanent dividend on cost than that, long before 1855, we do not think admits of a doubt.

Of the unpaid stock there is $16,950 on which nothing is yet received. Of that sum $6,750 is surplus stock left by old contractors, holding over from the State, who took the same by virtue of the special provision of the charter, with a view of working it into their contracts.

There is $3,500 of stock upon which only one instalment is paid.

There is $12,000 on which only two instalments are paid.

And $9,850 on which the 4th instalment is yet unpaid.

The aggregate amount of stock originally subscribed $437,650. The

annexed table shows where it was taken, how much in each place, and the aggregate of delinquent stock in each place, on the 30th June last.

Place.		Subscription.	Delinquent.
Fayette	Co.,	$162,500	$6,300
Wayne	"	122,000	9,050
Franklin	"	72,450	8,550
Henry	"	34,500	7,800
Rush	"	26,700	3,400
Decatur	"	1,050	850
Dearborn	"	500	—
Union	"	250	250
Cincinnati	"	17,700	450
Total		$437,650	$36,150

The annexed table exhibits the aggregate tolls canal, arranged by seasons:—

Fall of	1842	collected	$815 77
"	1843	"	927 45
"	1844	"	3,659 83
"	1845	"	6,358 54
Winter	1842–3	"	377 17
"	1843–4	"	1,277 58
"	1844–5	"	2,601 66
"	1845–6	"	2,655 50
Spring	1843	"	778 10
"	1844	"	2,573 98
"	1845	"	3,647 43
"	1846	"	10,697 17
Summer	1843	"	835 37
"	1844	"	725 84
"	1845	"	2,477 78
		Total,	$40,409 67

It will be noticed that more than one-fourth of that sum was collected during this last spring.

The whole amount was collected as follows:—

		$4,480 46
At Cambridge,	4,480 46	2,916 58
" Connersville,	2,916 58	3,148 34
" Laurel,	3,148 34	3,148 34
" Brookville,		16,142 35
" Harrison,		10,699 30
" Lawrenceburgh,		3,022 64
Total,		$40,409 67

The Company have collected water rents as follows:

During the fall of 1842,	$75 00
" " Winter and Spring, 1842–3,	1,049 00
" " Summer and Fall, 1843,	1,268 50
" " Winter and Spring, 1843–4,	2,000 00
" " Summer and Fall, 1844,	1,354 57
" " Winter and Spring, 1844–5,	1,848 75
" " Summer and Fall, 1845,	2,167 35
" " Winter and Spring, 1845–6,	2,430 71
Total,	$12,193 88

The aggregate water-power now leased is $8,255 per annum—the whole rent of which will be running within a year from this date.

The revenue account is made up to the 1st June and December in each year, with a view to the declaration of dividends on the 1st Mondays of July and January.

The tolls for 6 months prior to 1st June, are		$13,352 67
Water rents,		2,737 39
Surplus of last January and other profit items,		796 39
Total profits,		$16,886 45
Deduct uncollected tolls and water rents,	$704 72	
" Collectors' fees and expenses,	611 71	
" Repairs,	2,506 43	
		3,822 86
And it leaves a net profit fund of		$13,063 59

The Company own $19,450 of stock, which has been received in payment for real estate—deduct this from the whole amount of stock paid in—and the net sum aforesaid will make a dividend on the balance of three and one-half per cent. for the half year, and leave a surplus of $1,329.22

The dividend order made by the Board at their last session, is subjoined for the information of stockholders, as it is supposed that something like it will have to be the policy of the Company during the next eighteen months or two years:

"The period having arrived for the semi-annual declaration of dividends, and it being ascertained that a fund of $13,063.59 net profits had accumulated on the 15th of January last, the time of closing the books in this behalf, a portion of which sum was received in the paper of the Company, and the balance, which was received in cash, being found indispensable to meet the liabilities of the Company due and soon to become due, because of interest on the bonds of the Company, the necessary and extensive repairs now in progress on the canal, and the claims for damages adjusted, and yet pending, therefore ordered, that a dividend of three and one-half per cent. be struck at this time on the stock paid in, excepting that held by the

Company, which shall be paid as follows:—To each stockholder entitled to have his dividend paid out, instead of being passed to his credit on account, stock shall be issued on demand, so far as can be in the shares of each; and whenever there may be the fraction of a share, on like demand, a dividend warrant shall issue to the holder or bearer, to be redeemed in stock, as $50 in amount of such warrants shall be presented—or a dividend warrant may issue for the whole dividend, if preferred, redeemable in like manner.

"And the unpaid dividends of January last, and all other unpaid dividends on stock issued, may be paid in like manner. And said dividend warrants shall also be receivable in payment of stock. So far as any by-law or order of the Company may conflict with this order, the same is hereby repealed. And all dividend warrants shall draw interest from the date of their issue, at the rate of six per cent. per annum, to be calculated up to the dividend day next previous to the presentation."

The whole amount of stock certificates of small denominations, issue is		$208,541 00
Absorbed,	$180,132 00	
On deposit with the Company,	21,389 00	
		201,521 00
Which leaves outstanding,		$7,020 00

An account against the Company for $3,501 is also on deposit in lieu of the certificates, so that the amount of those certificates yet to be redeemed, may be set down at $31,910.

The outstanding certificates are rapidly coming in.

The whole amount of real estate conveyed to the Company,		$125,090 45
Real Estate sold is	$99,341 49	
Retained for hydraulic purposes,	10,242 96	
		109,584 45
For sale,		$16,406 00

Besides that, and the stock, the prominent items of means are:—

Notes taken for real estate sold,	$12,365 73
Sundry other debts due the Company,	3,662 87
Cash in the treasury,	1,992 31
" on deposit in Cincinnati,	6,843 09

The Cincinnati deposit of cash is under an excellent contract, by which the Company get interest at the rate of six per cent. per annum—ample security for principal and interest—and our drafts paid five days after sight. The policy is to thus keep all cash on deposit not immediately needed.

The prominent liability of the company is the loan for constructor of $116,000; that, as seen, does not mature short of eight years and a half.

Also there is the unredeemed paper, say	$32,000
Construction yet behind, say	10,000
Damages yet to be assessed, uncertain, say	10,000
Dividend of January last	4,316

These four items of liability must be met so soon as means can be had for that purpose. The expense of the company, the repairs, and the interest on the loan must be promptly met as they accrue.

After a careful consideration of these facts and the condition of the company, the board are of the opinion, that the tolls and water rents during the next two years, together with the collection of other dues, which they may reasonably calculate upon making, will be amply sufficient to defray all current expenses and pay off every liability except said loan. That done, thence forward the dividends may be regularly paid in cash.

If, during that two years, the stock account is kept equal to the construction account, agreeably to the obvious intent of the charter, and the company retain the stock at par, instead of exposing it to public sale—then, by declaring dividends on the whole stock, that is to say, the whole cost of construction—each stockholder will be in the regular receipt of his rateable proportion of *profit on cost;* and at the same time the company will be accumulating a fine surplus fund out of the dividend on their stock. That stock will be the balance of the whole after deducting that now in the hands of responsible holders, and will more than equal the loan debt.

Early last spring, the collectors' offices, duties, and salaries, were readjusted, so that they now stand thus:—

Edward Tate, Lawrenceburgh, salary		$100
Henry Seamen, Harrison	"	400
B. G. Hedrick, Laurel	"	350
Jno. Crum, Cambridge City	"	300

The other officers, and their salaries are thus:—

Sam'l W. Parker, President and Attorney	$1,000
Lewis B. Tupper, Secretary	800
Benj. P. Hegeman, Treasurer	400
Henry C. Moore, Engineer	1,000

The expense account for the first half of the current year being for costs, rent, fuel, stationery, printing, election costs, and director's pay, is in the aggregate, $425 75.

For the purpose of repair, and construction connected therewith, the water was so drawn off from the canal about the 1st of June, that the navigation will be in a great measure suspended for a period of some ten weeks. A strong force, of from 100 to 175 men, with

horses, carts, and wheelbarrows, will have been constantly engaged on the work. The old portion of the line had never been thoroughly repaired, and, because of wash and slips from the hills between Harrison and Lawrenceburgh had become almost impassable, not only for boats, but water. At one place, of nearly a quarter of a mile, the slate had stopped about a foot above bottom. The feeder at Harrison, the slackwater and feeder below Brookville, and the feeder at that place, were in a very bad condition. Large bars and deposits had to be removed, several lock-gates repaired or made anew, improvements in some place, &c. About Brookville, the repairs consist, mainly, in the removal of bars and deposites. Some construction was also required, such as enlarging and strengthening protection walls, which were delayed for the purpose of transporting the materials more cheaply by water. The aggregate bill will be in or about $11,000, the larger portion of which will be repairs proper, the residue construction.

It was intended to present, at this time, a statement in detail of all the business done on the canal, at the several collectors' offices, since it passed into the hands of the company. But the difficulty in now procuring full and accurate details has prevented. The following facts, however, have been procured, and are subjoined for the contemplation of stockholders and others interested in the trade of the valley.

Lawrenceburgh.

		Pounds cleared.	Passengers arrived.
Fall,	1842	809,998	134
"	1843	1,371,474	76
"	1844	228,660	22
"	1845	1,504,028	8
Winter,	1842	149,420	35
"	1843	460,434	78
"	1844	352,929	6
"	1845	31,757	28
Spring,	1843	823,299	339
"	1844	248,089	113
"	1845	73,519	151
"	1846	286,657	41
Summer,	1843	969,952	154
"	1844	6,600	174
"	1845	90,198	28

Lawrenceburgh.

Cleared for year beginning with September.

Articles.	1842-3	1843-4	1844-5.
Pounds.			
Merchandise,	241,652	182,055	20,558
Groceries,	107,059	88,717	4,774
Iron and Castings,	137,227	139,971	72,306
Barrels.			
Salt,	2,793	2,253	654
Whiskey,	46	28	32

Arrived for year beginning with September.

Pounds.			
Hay,	431,629	112,000	234,671
Bushels.			
Wheat,	11,150	30,260	44,657
Corn,	22,192	24,024	55,784
Other Grains,	2,738	705	1,658
Barrels.			
Flour,	12,684	9,556	9,416

Brookville.

		Pounds cleared.	Passengers.
Fall,	1842,	1,881,041	196
"	1843,	2,056,899	180
"	1844,	5,163,131	215
Winter,	1842,	801,063	64
"	1843,	1,020,349	177
"	1844,	4,864,814	599
Spring,	1843,	895,091	334
"	1844,	4,138,578	634
"	1845,	6,054,561	886
Summer,	1843,	1,550,904	142
"	1844,	792,600	312

Laurel.

		Pounds cleared.	Passengers arrived.
Spring,	1846,	6,657,256	140

Connersville.

		Pounds cleared.	Passengers arrived.
Fall,	1845,	2,429,365	406
Winter,	1845,	2,906,825	23

Cambridge

	Pounds cleared.	Passengers arrived.
Winter, 1845,	991,735	130
Spring, 1846,	6,878,247	1,163

Cleared at Harrison.

Pounds Merchandise.	Pounds Iron and Casting.	Kegs Nails.	Bushels Coal and Coke.	Barrels Salt.	Number Passengers.
		Spring, 1844.			
479,512	132,533	155	2,166	569	683
		Spring, 1845.			
593,464	159,939	171	1,280	1,014	744
		Summer, 1844.			
141,466	41,539	25	130	516	202
		Summer, 1845.			
456,442	220,600	174	1,733	2,054	632
		Fall, 1844.			
364,004	146,196	67	750	3,749	702
		Fall, 1845.			
834,291	368,785	163	1,091	8,088	707

Cleared at Laurel, 1846.

Pounds Wheat.	Barrels Flour.	Pounds Bacon.	Pounds Lard.	Barrels Eggs.	Pounds Butter.
March.					
192,891	721	286,312	247,827	49	1,146
April.					
155,614	868	146,980	2,765	106	989
May.					
120,245	275	221,193	350	31	1,944
June.					
157,303	160	—	75	7	750

Cleared at Ashland & Null's Mill, 1846.

March.					
175,913	—	597	408	12	—
April.					
135,329	214	597	—	44	250
May.					
65,869	50	5,072	1,450	20	700
June.					
19,529	100	—	—	5	540

Cleared at Connersville, 1845.

July.					
17,875	239	—	—	2	150
August.					
356,592	618	13,554	—	8	1,263
Sept.					
216,865	976	30,924	2,039	4	1,240
Oct.					
439,564	795	982	—	1	640
Nov.					
352,577	175	24,568	—	—	200
Jan. 1846.					
19,380	—	21,312	15,582	—	—
Feb.					
72,353	4	24,050	154,975	3	1,275
March.					
449,748	43	193,427	100,849	22	300
April.					
365,516	256	179,813	19,466	19	—
May.					
322,799	132	114,307	14,430	21	912
June.					
42,944	—	173,678	1,832	3	—

Cleared at Milton, 1845.

Oct.					
37,921	435	—	—	—	25
Nov.					
303,149	441	—	—	6	5,917
Jan., 1846.					
28,224	157	—	602	—	140
Feb.					
77,499	1,103	34,273	51,440	11	4,768
March.					
220,598	1,949	1,780	44,239	33	2,377
April.					
159,574	1,867	383,537	484	123	869
May.					
232,529	1,243	78,396	79,312	41	6,668
June.					
40,818	904	—	—	10	3,442

Cleared at Cambridge.

Articles.		Winter '45–6.	Spring 1846.
Wheat	Bushels	17,903	33,752
Flaxseed	"	405	825
Cloverseed	"	83	43
Oats	"	230	7,845
Lard	"	274,340	202,906
Butter and Eggs	"	6,555	39,669
Bacon	"	—	492,022
Pork, b'lk		276,238	613,339
Live Hogs	"	—	28,500
Pork	Barrels	—	1,940
Flour	"	1,670	7,704
Whiskey	"	6	1
Lumber, feet		300	8,296
Hoop poles, No.		1,800	7,330
Passengers,	"	—	1,246

Besides the above and other points along the line doing a small business, a very considerable business has been doing at Metamora during the last two years, of which we have not the specific returns. The specimens presented are but a meagre indication of the aggregate items of business done on the canal. Submitted

By order of the Board,
S. W. PARKER,
Pres't.

Attest,
L. B. TUPPER,
Sec'y.

Henry Goodlander, of Fayette County, Indiana, of lawful age, being by me first duly sworn to depose the truth, the whole truth and nothing but the truth, deposes and says as follows:—

1st Ques. State if you have ever been an officer of the White Water Valley Canal Company; if so, state when you held it, what office it was, and how long you held it.

Ans. I have been an officer of said company. I held the office of Treasurer. I held that office from the organization of the company until January, 1845.

2d Ques. State if you were or were not the Treasurer of the White Water Valley Canal Company at the time a contract was made by said company with Henry Vallette to perform the work from Connersville to Cambridge City.

Ans. I was the Treasurer of said company at that time.

3d Ques. State whether or not the work contracted for by Vallette with the company was done; whether by such contractors or otherwise.

Ans. I believe said work was done. I believe the work on said contract, being all the unlet portions of the work between Connersville and Cambridge City, was performed by sub-contractors under Vallette. The following exhibit, marked *B B*, hereto attached and made a part of this deposition, is in my handwriting, and was made out by me and contains a list of the sub-contractors under Vallette, with the amount paid to each one and the times when paid.

(James A. Fay, Esq., here appeared for the def't.)

4th Ques. How was the money paid to the contractors? State if estimates were made as the work progressed, and who made those estimates; and, if such estimates were made, state if you know upon whom they were made.

Ans. The money was paid by me on estimates from Henry C. Moore, the Engineer of the Company. The estimates were made by said Engineer upon Henry Vallette. The money paid to the sub-contractors was a little of it paid by Vallette, but most of it paid by me, and that portion of it paid by Vallette was accounted to me by him. (Deft's counsel objected to witness stating what estimates were without showing them.)

5th Ques. Look at his exhibit of estimates attached to a piece of cloth, and dated October 29th, 1844; January the 6th, 1845; March 12th, 1845; May 21st, 1845; and from July, 1845, on. State whose estimates they are, what they were made for, and who paid them.

Ans. The exhibit, marked *E E*, attached hereto and made a part of this deposition, consisting of papers sowed to a piece of cloth, represents the estimates of M. C. Moore, the Engineer of the Company, upon which payments were made to sub-contractors, and as far as they agree with the beforementioned abstract, marked Exhibit *B B*, are correct.

6th Ques. Please state whether or not you paid out this money on the estimates and abstract as exhibited for the White Water Valley Canal Company as their Treasurer, or for Henry Vallette as his paymaster or assistant, or clerk; state in what position you regarded yourself in paying out the money on this contract.

Ans. I paid the money out for work done on said contract for Mr. Vallette. I regarded myself in that case as Mr. Vallette's clerk.

7th Ques. Please state how you paid money, or scrip, or anything else issued by the White Water Valley Canal Company, as Treasurer of that company. State whether or not estimates were made for work done by contractors on the Treasurer of said company or on the Secretary. State whether or not you paid out evidences of debt or money for the company as Treasurer on estimates made by the Engineer, or whether or not estimates made by the Engineer were received by the Secretary of said Canal Company. State the routine of duty as Treasurer in paying out anything for the company.

Ans. Payments were made by me as Treasurer of the company only upon warrants of the Secretary of the company issued by him

to me. No money was paid by me as such Treasurer on estimates of the Engineer.

8th Ques. State whether or not you reported to any director or officer of said Canal Company any of the payments that you to the contractors of Vallette. And what connections said payments had, if any, with your duties as an officer or Treasurer of said Canal Company.

Ans. No reports were made by me as such treasurer to any officer of the canal company of the payments made to the contractors of Vallette, nor did such payments have any connection with the duties of my said office.

(*Cross-examined by Jas. A. Fay, Defendant's Counsel.*)

1st Quest. Did you consider those estimates as drawn upon you by Henry C. Moore as the engineer of the company?

Ans. Henry C. Moore was the engineer of the company, but they had no connection with the business of the company. I refer to the estimates: The estimates were drawn upon Mr. Vallette, as I understood, and I paid them as such, for him.

2d Quest. What was done with the certificates or estimates when you paid them?

Ans. I retained them until settlement with Mr. Vallette, and then handed them over to him.

3d Quest. When was that?

Ans. I cannot now state; but to the best of my recollection, they were handed by me to Mr. Vallette about the time my deposition was taken in the case of Wood & Oliverus Vallette, in November, 1852. The papers were taken away by Mr. Vallette at my request and suggestion. (Deft's counsel objected to that part of the answer relative to the taking away of the papers being taken down,) for the company.

Ans. I cannot now recollect.

9th Quest. Do you understand by the engineer there, the engineer of the company, or if not, what character does it designate?

Ans. I understand it to mean there the engineer under Mr. Vallette. He was engineer of the company at the same time, but we required him (Moore) as the engineer for *for* Vallette also.

10th Quest. Why do you regard Mr. Moore, the engineer, as acting for Vallette in that matter, and not for the company as its engineer?

Ans. I do not know in any other way, only from Mr. Moore's own admissions. I heard him state something in regard to his pay from Mr. Vallette, and he was not satisfied with the amount. I never heard the fact questioned in regard to the fact that Mr. Moore was acting as the engineer of Mr. Vallette in that matter, until the commencement of this suit. (Deft's counsel objected to witness stating information from Moore.)

½ past two o'clock P. M.

The further taking of these depositions, at request of defendant's counsel was here adjourned till ½ past 3 o'clock P. M., and at that hour to be resumed.

½ past 3 o'clock P. M.

The notary open the deposition pursuant to adjournment.

The complainant appearing, and no one appearing on the behalf of the def'ts, when the cross-examination was considered by the notary to be closed, and the witness was re-examined by complainant as follows:—

Re-examination.

1st. Quest. You state that Mr. Moore was the engineer for Mr. Vallette, in making estimates for the work done sub-contractors. State whether or not you were informed of that fact by Mr. Helm, the President of the company, and other officers thereof. State if it was not notorious that such was the case, and if it was not so, state how you got the information.

Ans. I have no recollection of Mr. Helm, or any of the rest of the officers having stated so. It is so long since, that I do not recollect, though they may have done so. I cannot say that the fact inquired of was "notorious," but from the fact that he made out these estimates, and from conversation I had with Mr. Moore, I have had no doubt of the fact, that he was the engineer for Mr. Vallette.

2d. Ques. Are you acquainted with Meredith Helm, and if so, state how long have you been acquainted with him? I knew Meredith Helm, the former President of the White Water Valley Canal Company.

Ans. I am and have been acquainted with him about 32 years.

3d. Ques. What is the general character of Meredith Helm aforesaid? State if you are acquainted with it, whether it is good or bad.

Ans. I am acquainted with it, and it stands very fair.

James A. Fay, the defendant's counsel, here appeared, and claimed the right of continuing the cross-examination, to which the complainant consented.

Cross-examination Resumed.

11th Ques. Did you understand that Mr. Moore was acting as the engineer of the company and the engineer of Mr. Vallette also, at the same time, on the canal?

Ans. That is my information.

12th Ques. Did he act as the engineer of the company in making out estimates of work done by Mr. Vallette's sub-contractors on the canal?

Ans. When Mr. Moore made out the certificates of the estimates

referred to, I regarded him as the engineer of Mr. Vallette, and not of the company.

13th Ques. Have you any information in what capacity Mr. Moore acted otherwise than as derived from statements from him?

Ans. I do not remember now that I got the information from any other source. I thought it was so understood at the time.

14th Ques. In what way did Mr. Moore act as the engineer of the company and of Mr. Vallette at the same time, and on the same portion of the canal?

Ans. I do not know that he acted in that way for both at the same time.

15th Ques. Is the form of the certificates shown you on your examination in chief the same used by the company on all occasions?

Ans. I think it is similar, if I recollect right. The difference is, these are addressed to Mr. Vallette, and the others are addressed to the Secretary of the company. The printed part was, I think, the same in both cases.

16th Ques. In accepting the work done on this portion of the canal, when finished, did Mr. Moore act as the engineer of the company, or the engineer of Mr. Vallette?

Ans. I know nothing about the acceptance of the work at all.

17th Ques. In his estimates of the work done on that part of the canal, did Mr. Moore act as the engineer of the company or of Mr. Vallette?

Ans. I presume that in that he was acting as the engineer of Vallette, from the fact of his making out the certificates, as he did, of the estimates to Vallette.

18th Ques. In what particular did Mr. Vallette act as the engineer of the company on that part of the canal?

Ans. I do not know that I can state in what particular he acted as such.

19th Ques. Do you know that he acted as the engineer of the company in any particular on that portion of the canal?

Ans. I do not.

20th Ques. Do you know whether Mr. Vallette and Mr. Moore had any arrangement for procuring the contract that was obtained from the canal company?

Ans. I do not.

21st Ques. Was Mr. Moore to have any interest in the contract when obtained?

Ans. I don't know that I ever heard such a matter mentioned before.

22d Ques. Was Mr. Vallette very anxious to obtain the contract?

Ans. I cannot say.

23d Ques. Were you present at any time before the Board when the application was made for it? (Pltff. objects.)

Ans. I do not remember.

24th Ques. State how the contract was regarded; whether it was

regarded as simply a contract for work, or as one involving a loan. (Complt. objects to the question.)

Ans. I cannot say at this time how it was regarded. I do not recollect.

25th Ques. Do you say you cannot state, from your recollection of this time, whether the said contract when made was not regarded as one for work simply, but as one embracing and intended to cover a loan? Or, in other words, as one to obtain the money for the completion of that portion of the canal? (Complt. objects to the question.)

Ans. I cannot say anything definite in regard to it.

Re-examination resumed.

4th Ques. What is the general character of Meredith Helm for truth and veracity? Would you believe his statements under oath?

Ans. His character for truth and veracity is very good, and I would believe him under oath or any other way.

HENRY GOODLANDER.

Abstract showing the Amount paid by Henry Vallette to Contractors on the White Water Valley Canal.

	J. Quinland.	N. McLure.	John Shank.	Rusel and Garty.	Beitzel and Vance.	Geo. Bohl.	And. Hotchkiss.	McNulty and Shay.	Jno. McGreary.	Hill, Brooks & Co.	Scofield Scott.	Duncan and Haslet.
No. of Section	125	C	129 1/3	126	A	120	124	123	B	2 and 3	119	132
1844 October Estimate	17 00	1062 50	340 00	212 50	311 10	35 70	187 00	205 70	785 40	593 30	277 95	549 16
January, 1845	255 00	1530 00	289 80	365 50	272 00	159 80	190 40	262 65	629 85	549 10	616 25	1215 00
March, "	266 05	510 00	238 00	467 50	348 50	197 20	291 55	202 30	425 00	875 50	320 45	1105 00
May, "	161 50	1062 50		287 30	220 15	264 20	475 15	211 51	765 00		797 30	2312 50
Final, "	129 70	1648 24	233 44	529 98	370 07		373 55		552 89	2345 66	917 01	2305 64
Total each Section	829 25	5813 24	1101 24	1862 78	1521 82	656 90	1517 65	882 16	3158 14	4363 56	2928 96	7487 30

Abstract—Continued.

	Haines and Meyer.	McNanamara.	Quin, Fitzpatrick & Co.	Q. & F. & Co.	Jno. Burke.	Pierce and Kirbe.	John Shank.	Quin and Fitzpatrick.	McCarty, Brady & Co.	H. & H. Pierce.	James Crossin.	Grand Total Amount Paid.
No. of Section	117	118	112 and 113	129 2/3	117 1/2	127	1	130	122	121	114	
1844 October Estimate	104 55	122 40	362 95	137 70	69 70							5374 61
January, 1845	935 00	323 00	1041 25	634 10	367 20	1440 00				82 80		11158 70
March, "	671 50	316 20	467 50	705 50	180 20	1195 00	144 50	34 00	42 50	120 35	42 50	9166 80
May, "	595 00		807 50		215 90	1530 00	455 60	595 00	607 75	243 95		11607 81
Final, "	1554 66	266 01	1930 94	344 10	271 41	1404 96	212 70	440 00	313 82	242 81	122 50	16510 49
Total each Section	3860 71	1027 61	4610 14	1821 40	1104 41	5569 96	812 80	1069 40	964 07	689 91	165 00	53818 41

This is the paper referred to in my deposition of this date, marked *B B*, on which I have written my name.

HENRY GOODLANDER,

March 21st, 1856.

Exhibit *B B*, marked by me.

SAM. HERRON, *N. P.*

Exhibit "E E" referred to in Deposition of Henry Goodlander.

White Water Canal.

No. 18.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Section No. 117½ of White Water Canal, John Burke, contractor, to the value of eighty-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$82 00
Former estimates,	
Total,	$82 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 16.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Sections No. 112, 113 of the White Water Canal, Quin, Fitzpatrick & Co. contractor, to the value of four hundred and twenty-seven dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$427 00
Former estimates,	$
Total,	$427 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 17.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Section No. 129⅔ of the White Water Canal, Quin & Fitzpatrick, contractor, to the value of one hundred and sixty-two dollars

cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,		$162 00
Former estimates,		$———
	Total,	$162 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 13.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Section No. 132 of the White Water Canal, Duncan & Haslette, contractor, to the value of six hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,		$650 00
Former estimates,		$———
	Total,	$650 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 12.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Green's Fork Feeder, Section No. 3, of the White Water Canal, Hill & Brooks, contractor, to the value of four hundred and sixty-nine dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,		$469 00
Former estimates,		$———
	Total,	$469 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 11.

Oct. 29th, 1844.

H. Vallette—Sir: I certify that work has been performed on Green's Fork Feeder, Section No. 2, of the White Water Canal, Hill & Brooks, contractor, to the value of two hundred twenty-nine

dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$229 00
Former estimates,	$———
Total,	$229 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 5.

Oct. 29th, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. B, of the White Water Canal, John McGreary, contractor, to the value of nine hundred and twenty-four dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$924 00
Former estimates,	$———
Total,	$924 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 9.

Oct. 29th, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. 124, of the White Water Canal, Andrew Hotchkiss, contractor, to the value of two hundred and twenty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$220 00
Former estimates,	$———
Total,	$220 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 8.

Oct. 29th, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. 123 of the White Water Canal, McNulty & Shea Contractor, to the value of two hundred and forty-two dollars

cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$242 00
Former estimates,	$
Total,	$242 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 2.

Oct. 29*th*, 1844.

H. Vallette: I certify that work has been performed on Section No. 120 of the White Water Canal, George Bohl, Contractor, to the value of forty-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$42 00
Former estimates,	$00 00
Total,	$42 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 6.

Oct. 29*th*, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. of the White Water Canal, Beitzell & Vance, Contractor, to the value of three hundred and sixty-six dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of contract.

Present estimate,	$366 00
Former estimates,	$
Total,	$366 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 7.

Oct. 29*th*, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. 126 of the White Water Canal to the value of two

hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$250 00
Former estimates,	$
Total,	$250 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 4.

Oct. 29*th*, 1844.

H. Vallette, Esq.: I certify that work has been performed on Section No. 129⅓ of the White Water Canal, John Shank, Jr., Contractor, to the value of four hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$400 00
Former estimates,	$
Total,	$400 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 3.

Oct. 29*th*, 1844.

H. Vallette—Sir: I certify that work has been performed on Section No. C of the White Water Canal, N. McClure, Contractor, to the value of twelve hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1250 00
Former estimates,	$
	$1250 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 15.

Oct. 29*th*, 1844.

H. Vallette—Sir: I certify that work has been performed on

Section No. 117 of the White Water Canal, Hirmers & Myers, Contractor, to the value of one hundred and twenty-three dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$123 00
Former estimates,	$
Total,	$123 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 1.

Oct. 29, 1844.

H. Vallette, Esq.—Sir: I certify that work has been performed on Section No. 125 of the White Water Canal, James Quinlain, Contractor, to the value of twenty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$20 00
Former estimates,	$00 00
Total,	$20 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 14.

Oct. 29*th*, 1844.

H. Vallette—Sir: I certify that work has been performed on Section No. 118, of the White Water Canal, Martin McNamara, Contractor, to the value of one hundred and forty-four dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$144 00
Former estimates,	$
Total,	$144 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 19.

January 6*th*, 1845.

I certify that work has been performed on Section No. 129⅓, of the

White Water Canal, John Shank, Jr., Contractor, to the value of three hundred and twenty-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$322 00
Former estimates,	$400 00
Total,	$722 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 34.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 3, of the White Water Canal, Hill & Brooks, Contractor, to the value of five hundred and seventy-five dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$575 00
Former estimates,	$469 00
Total,	$1044 00

H. C. MOORE,
C. Engineer.

(*Endorsements on above certificate.*)

" Retain the following claims :—

" Fred. Shoemaker,	$17 45
" Wm. Fisher,	4 37
" L. Guthrie,	3 00
" Samuel Cammach,	56 00
" Peter Miller,	10 00
" Henry Whitcourt,	10 58
	101 50"

White Water Canal.

No. 20.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 126, of the White Water Canal, Russell & Garet, Contractor, to the value

of four hundred and thirty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$430 00
Former estimates,	$250 00
Total,	$680 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 37.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 117½, of the White Water Canal, John Burke, Contractor, to the value of four hundred and thirty-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$432 00
Former estimates,	82 00
Total,	$514 00

H. C. MOORE,
C. Engineer.

Endorsements on the back of the above copied certificate.

Retain and pay the following claims:—

Philip Trobering,	$23 00
Fred. Aubt,	5 00
Charles Newport,	5 50
Joseph Ott,	9 75
Henry Shaffer,	10 50
Henry Darman,	9 25
Golwith Zuin,	1 78
Jacob Smith,	50 00
	$114 78
John Dickman,	366 40
Fred. Ritter,	125 54
	$366 72

White Water Canal.

No. 35.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 129⅔, of

the White Water Canal, Quinn & Fitzpatrick, Contractors, to the value of seven hundred and forty-six dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$746 00
Former estimates,	$162 00
Total,	$908 00

H. C. MOORE,
C. Engineer.

White Water.

No. 30.

Jan. 6th, 1845.

I certify that work has been performed on Section No. B. of the White Water Canal, to the value of seven hundred and forty-one dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$741 00
Former estimates,	$924 00
Total,	$1665 00

H. C. MOORE,
C. Engineer.

(*Endorsements on the above certificate* (*No.* 30).)

"Retain the following claims:—

"R. L. Broaddus,	$26 40
"F. Graff,	10 00
	$36 40"

White Water Canal.

No. 23.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 124, of the White Water Canal, Andrew Hotchkiss, Contractor, to the value of two hundred and twenty-four dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$224 00
Former estimates,	220 00
Total,	$444 00

H. C. MOORE,
C. Engineer.

Endorsement on the above (*No.* 23) *certificate.*

" Retain an order in favor of James Mount, $70 00"

White Water Canal.

No. 29.

Jan. 6th, 1845.

I certify that work has been performed on Section No. A, of the White Water Canal, Beitzell & Vance, Contractor, to the value of three hundred and twenty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$320 00
Former estimates,	366 00
Total,	$686 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 36.

Jan. 6th, 1845.

I certify that work has been performed on Sections No. 112 and 113, of the White Water Canal, Quinn, Fitzpatrick & McCoy, Contractor, to the value of twelve hundred and twenty-five dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,225 00
Former estimates,	427 00
Total,	$1,652 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 24.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 2, of the White Water Canal, to the value of seventy-one dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$71 00
Former estimates,	229 00
	$300 00

H. C. MOORE,
C. Engineer.

No. 25.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 127, of the White Water Canal, Pierce & Rirk, Contractor, to the value of sixteen hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1600 00
Former estimates,	0000 00
Total,	$1600 00

H. C. MOORE,
C. Engineer.

Endorsements on the above certificate (*No.* 25).

Retain the following claims:—

Pat. McGee,	$14 07
Mathew Hammond,	24 07
Mathew McCorwin,	19 87
Hugh Cosgrove,	6 90
	$64 93

No. 26.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 121, of the White Water Canal, H. & H. Pierce, Contractor, to the value of ninety-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$92 00
Former estimates,	00 00
Total,	$92 00

H. C. MOORE,
C. Engineer.

No. 27.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 120, of the White Water Canal, George Bohl, Contractor, to the value of one hundred and eighty-eight dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$188 00
Former estimates,	42 00
Total,	$230 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 28.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 123, of the White Water Canal, McNulty & Shea, Contractor, to the value of three hundred and nine dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$309 00
Former estimates,	242 00
Total,	$551 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 32.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 125 of the White Water Canal, James Quinlan, contractor, to the value of three hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$300 00
Former estimates,	20 00
Total,	$320 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 38.

Jan. 6th, 1845.

I certify that work has been performed on Section No. 117 of the White Water Canal, Heimer & Myers, Contractor, to the value of eleven hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1100 00
Former estimates,	123 00
Total,	$1,223 00

Endorsed: $210 50

C. H. MOORE,
C. Engineer.

No. 57.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. A of the White Water Canal, Butzell & Vance, Contractor, to the value of four hundred and ten dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$410 00
Former estimates,	686 00
Total,	$1,096 00

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit:

Note.—All the money that is due on this is to be paid to Michael Rafferty a sub-contractor.

H. C. M.

White Water Canal.

No. 58.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 112 & 113 of the White Water Canal, Quinn, Fitzpatrick & McCoy, Contractor, to the value of five hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$550 00
Former estimates,	1,652 00
Total,	$2,202 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 61.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 117½ of the White Water Canal, John Burke, Contractor, to the value of two hundred and twelve dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$212 00
Former estimates,	514 00
Total,	$726 00

H. C. MOORE,
C. Engineer.

(*Endorsements on above* (*No.* 61) *Certificate.*)

$33 72 of this to be paid to John Dickman, and the rest to Burke.

White Water Canal.

No. 52.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 129⅔ of the White Water Canal, Quinn & Fitzpatrick, Contractor, to the value of eight hundred and thirty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$830 00
Former estimates,	908 00
Total,	$1,738 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 59.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Road Bridge Section No. 114 of the White Water Canal, James Crossen, Contractor, to the value of fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the contract.

Present estimate,	$50 00
Former estimates,	$
Total,	$50 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 43.

March 12*th*, 1845.

I certify that work has been performed on Section No. B of the White Water Canal, John McGrevy, Contractor, to the value of five hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$500 00
Former estimates	1,665 00
Total,	$2,165 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 44.

March 12*th*, 1845.

I certify that work has been performed on Section No. 125 of the White Water Canal, James Quinlein, Contractor, to the value of three hundred and thirteen dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$313 00
Former estimates	320 00
Total,	$633 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 45.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 123 of the White Water Canal, McNulty & Shea, Contractor, to the value of two hundred and thirty-eight dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$238 00
Former estimates	551 00
Total,	$789 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 40.

March 12*th*, 1845.

H. Vallette, Esq.—I certify that work has been performed on Section No. 120 of the White Water Canal, George Bohl, Contractor, to the value of two hundred and thirty-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$232 00
Former estimates	230 00
Total,	$462 00

H. C. MOORE,
C. Engineer.

No. 51.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 121 of the White Water Canal, H. & H. Pierce, Contractor, to the value of one hundred and forty-seven dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$147 00
Former estimates	92 00
Total,	$239 00

H. C. MOORE,
C. Engineer.

No. 50.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 127 of the White Water Canal, Kirke & Pierce, Contractor, to the value of fifteen hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$1,500 00
Former estimates	1,600 00
Total,	$3,100 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 47.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. I of the White Water Canal, John Shank, Contractor, to the value of one hundred and seventy dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$170 00
Former estimates	
Total,	$170 00

H. C. MOORE,
C. Engineer.

(*Endorsement on the above certificate*): Pay this.

"Pd. John McCumpy,
John Shank."

White Water Canal.

No. 42.

March 12*th*, 1845.

I certify, that work has been performed on Section No. 129⅓ of the White Water Canal, John Shank, Contractor, to the value of two hundred and eighty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate	$280 00
Former estimates	722 00
Total,	$1,000 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 53.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 130 of the White Water Canal, Quin & Fitzpatrick, contractor, to the value of forty dollars cents, in addition to the sums previously certified, estimated agreably to the terms of the contract.

Present estimate,	$40 00
Former estimates,	$——
Total,	$40 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 55.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 3, G. F. Feed, of the White Water Canal, Hill & Brooks, contractor, to the value of six hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$600 00
Former estimates,	$1044 00
Total,	$1644 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 48.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 124 of the White Water Canal, Andrew Hotchkiss, contractor, to the value of three hundred and forty-three dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$343 00
Former estimates,	$444 00
Total,	$787 00

H. C. MOORE,
C. Engineer.

Endorsement on the above (No. 48) certificate.

Claims to be paid.

Jos. Wilson	$119 00
Miner Meeker	$12 75
	$131 75

White Water Canal.

No. 49.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 117 of the White Water Canal, Heimer & Myers, contractor, to the value of seven hundred and ninety dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$790 00
Former estimates,	$1223 00
Total,	$2013 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 62.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 122 of the White Water Canal, McCarty, Brady, & Co., contractor, to the value of fifty dollars cents, in addition to the

sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$50 00
Former estimates,	$———
Total,	$50 00

H. C. MOORE,
C. Engineer.

Endorsement on the above (No. 62) certificate.

Note.

"Retain $12 out of this for timber claim."

White Water Canal.

No. 39.

March 12*th*, 1845.

I certify that work has been performed on Section No. 118 of the White Water Canal, M. McNamara, contractor, to the value of three hundred and seventy-two dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$372 00
Former estimates,	$524 00
Total,	$896 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 41.

March 12*th*, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 126 of the White Water Canal, Russel & Garst, contractor, to the value of five hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$550 00
Former estimates,	$680 00
Total,	$1230 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 46.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section

No. 132 of the White Water Canal, Duncan and Hartell contractor, to the value thirteen hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,300 00
Former estimates,	$2,000 00
Total,	$3,300 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 60.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 6 of the White Water Canal, Nathaniel McClure, contractor, to the value of six hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$600 00
Former estimates,	$3,050 00
Total,	$3,650 00

H. C. MOORE,
C. Engineer,

White Water Canal.

No. 54.

March 12*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 2, Green's Fork Feeder, of the White Water Canal, Hill & Brooks contractor, to the value of four hundred and thirty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$430 00
Former estimates,	$300 00
Total,	$730 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 71.

May 21*st*, 1845.

I certify that work has been performed on Section No. 124 of the

White Water Canal, Andrew Hotchkiss, contractor, to the value of five hundred and fifty-nine dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$559 00
Former estimates,	$787 00
Total,	$1,346 00

H. C. MOORE,
C. Engineer.

(*Endorsement on No.* 71.)

Retain for claims $214 22.

No. 81.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. C of the White Water Canal, Nathaniel McClure, contractor, to the value of twelve hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,250 00
Former estimates,	$3,650 00
Total,	$4,900 00

H. C. MOORE,
C. Engineer.

No. 75.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. 127 of the White Water Canal, Pierce & Kirk, contractor, to the value of eighteen hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,800 00
Former estimates,	$3,100 00
Total,	$4,900 00

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit:

Claims to be retained:—

George Ralston,	$49 66
Michael Cassady,	10 00
	$59 66

No. 72.

May 21*st*, 1845.

I certify that work has been performed on Section No. 120 of the White Water Canal, George Bohl, contractor, to the value of one hundred and ninety-four dollars, 90 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$194 90
Former estimates,	$462 00
Total,	$656 90

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: *Final.*

Retain claims, $153 25.

No. 74.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. 121 of the White Water Canal, H. and H. Pierce, contractor, to the value of two hundred and eighty-seven dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$287 00
Former estimates,	$239 00
Total,	$539 00

No. 82.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Road Bridge on Section No. 114 of White Water Canal, James Crossen, Contractor, to the value of one hundred and fifteen dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$115 00
Former estimates,	50 00
Total,	$165 00

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: *Final.*
Pay the retained percentage.

No. 65.

May 21*st*, 1845.

I certify that work has been performed on Section No. 118 of the White Water Canal, Mathew McNamara, Contractor, to the value of one hundred and thirty-one dollars 61½ cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$131 61½	*Final.*
Former estimates,	896 00	
Total,	$1027 61½	

H. C. MOORE,
C. Engineer.

Endorsed as follows: "*Final.*"

No. 79.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. 139 of the White Water Canal, Quinn & Fitzpatrick, Contractor, to the value of seven hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$700 00
Former estimates,	40 00
Total,	$740 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 78.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. 112—113 of the White Water Canal, Quinn, Fitzpatrick & McCoy, Contractor, to the value of nine hundred and fifty dollars cents, in addition to the sums previously certified, agreeably to the terms of the contract.

Present estimate,	$950 00
Former estimates,	2202 00
Total,	$3152 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 80.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. 117 of the White Water Canal, Heimer & Myers, Contractor, to the value of seven hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$700 00
Former estimates,	2013 00
Total,	$2713 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 76.

May 21*st*, 1845.

H. Vallette: I certify that work has been performed on Section No. B of the White Water Canal, John McGreevey, Contractor, to the value of nine hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$900 00
Former estimates,	2165 00
Total,	$3065 00

H. C. MOORE,
C. Engineer.

Endorsements on the above (No. 76) *certificate:*—

"Retain claims.

"Dennis Smulling,	$1 65
"R. L. Booddus,	10 90
	"$12 55"

White Water Canal.

No. 77.

May 21*st*, 1845.

I certify that work has been performed on Section No. A of the White Water Canal, Beitzell & Vance, Contractor, to the value of

two hundred and fifty dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$259 00
Former estimates,	1096 00
Total,	$1355 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 70.

May 12*st*, 1845.

H. Vallette: I certify that work has been performed on section No. 132 of the White Water Canal, Duncan & Hastell, Contractor, to the value of twenty-eight hundred dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$2,800 00
Former estimates,	3,300 00
Total,	$6,100 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 66.

May 21*st*, 1845.

I certify that work has been performed on section No. 125 of the White Water Canal, James Quinlan, Contractor, to the value of one hundred and ninety dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$190 00
Former estimates,	633 00
Total,	$823 00

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit:

Retain Claims, James Thompson, $13 34.

White Water Canal.

No. 63.

Connersville, May 16th, 1845.

H. Vallette—Sir: I certify that work has been performed on section No. 126 of the White Water Canal, Russel & Garst, Contractor, to the value of three hundred and thirty-eight dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$338 00
Former estimates,	1230 00
Total,	$1568 00

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit:
Deduct labor claims.

White Water Canal.

No. 67.

May 16th, 1845.

H. Vallette: I certify that work has been performed on section No. 123 of the White Water Canal, McNulty & Shea, Contractor, to the value of ninety-three dollars, 16 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$93 16
Former estimates,	789 00
Total,	$882 16

H. C. MOORE,
C. Engineer.

Endorsed: "Note" "*Final.*"

White Water Canal.

No. 68.

May 16th, 1845.

I certify that work has been performed on section No. 117½ of the White Water Canal, John Burke, Contractor, to the value of two hundred and fifty-four dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$254 00
Former estimates,	726 00
Total,	$980 00

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 64.

May 16*th*, 1845.

H. Vallette: I certify that work has been performed on section No. 122 of the White Water Canal, McCarty, Brady & Co., Contractor, to the value of seven hundred and fifteen dollars cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$715 00
Former estimates,	50 00
Total,	$765 00

H. C. MOORE,
C. Engineer.

No. 85.

July 10*th*, 1845.

H. Vallette—Sir: I certify that work has been performed on section No. 124 of the White Water Canal, Andrew Hotchkiss, Contractor, to the value of one hundred and seventy-one dollars 65 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract. *Final.*

Present estimate,	$171 65
Former estimates,	1346 00
Total,	$1517 65

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: *Final.*

"Retain the following claims:

"John Elliott,	$36 78
"Joseph Wilson,	30 00
"Hague Breabum,	146 69
	$213 47

"H. Lewis——

"Retain till I give you another certificate, $30.

H. C. M."

No. 100.

August 28*th*, 1845.

H. Vallette:—I certify that work has been performed on Section

No. 1, Green's Fork Feeder of the White Water Canal, John Shank is contractor; to the value of one hundred and six dollars 80 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract. *Final.*

Present estimate,	$106 80
Former estimates,	$706 00
Total,	$812 00

H. C. MOORE,
C. Engineer.

Endorsed "*Final.*
"Deduct amount paid to W. Niffs."

No. 86.

July 11*th*, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. A of the White Water Canal, Beitzell & Vance, contractor, to the value of one hundred and sixty-six dollars 82 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract. *Final.*

Present estimate,	$166 82
Former estimates,	$1,355 00
Total,	$1,521 82

C. H. MOORE,
C. Engineer.

No. 86, above indorsed, as follows, to wit: *Final.*

Deduct claims paid to men as per abstract,	$90 84
Michael Rafferty,	76 78
H. Lewis,	57 70
	$225 32

White Water Canal.

No. 92.

August 6*th*, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 3, Green's Fork Feeder line of the White Water Canal, Hill & Co., contractor, to the value of nineteen hundred and eighteen

dollars 81 cents, in addition to the sums previously certified, agreeably to the terms of the contract. *Final.*

Present estimate,	$1,918 81
Former estimates,	$1,644 00
Total,	$3,562 81

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: *Final.*

Deduct for $134 00

"Retain $5 in your hands till the contractors take some logs and stumps out of the canal, when I will give you another order to pay it.
H. C. M."

White Water Canal.

No. 98.

August 8th, 1845.

H. Vallette: I certify that work has been performed on Section No. 117½ of the White Water Canal, John Burke, contractor, to the value of one hundred and twenty-four dollars 41 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract. *Final.*

Present estimate,	$124 41
Former estimates,	$980 00
Total,	$1,104 41

H. C. MOORE,
C. Engineer.

Endorsed "*Final.*"

"Deduct claims, and retain $20 in your hands till I send you another order. H. C. M."

White Water Canal.

No. 99.

August 28th, 1845.

H. Vallette: I certify that work has been performed on Section No. 129⅓ of the White Water Canal, John Shank, Jr., contractor,

to the value of ninety-nine dollars 24 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Final.

Present estimate,	$99 24
Former estimates,	$1,002 00
Total,	$1,101 24

H. C. MOORE,
C. Engineer.

Endorsed "*Final.*
"Deduct claims paid, and Lewis & Vallette's account."

White Water Canal.

No. 95.

August 11th, 1845.

H. Vallette: I certify that work has been performed on Section No. B of the White Water Canal, John McGrevey, contractor, to the value of ninety-three dollars 14 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Final.

Present estimate,	$93 14
Former estimate,	$3,065 00
Total,	$3,158 14

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*
"Deduct payments and advances, and retain the following claim, viz:—
"Martin Oberlus, $3 40."

White Water Canal.

No. 94.

Aug. 9th, 1845.

H. Vallette: I certify that work has been performed on Section No. 112, 113 of the White Water Canal, Quinn, Fitzpatrick, and McCoy, contractor, to the value of fourteen hundred and fifty-eight dollars, 14 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,458 14
Former estimates,	$3,152 00
Total,	$4,610 14

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*

"Deduct claims, viz:—

"John Burke,	$60 00
"H. B. Woodcock,	171 95
"Wiley Eldridge,	17 75
"Henry Vallette, for	744 72
	$994 42

"Retain in your hands till I give another certificate of completion, $50."

White Water Canal.

No. 91.

Aug. 6th, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 2, Green's Fork Feeder line of the White Water Canal, Hill & Co., contractor, to the value of seventy dollars, 75 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$70 75	*Final.*
Former estimates,	730 00	
Total,	$800 00	

H. C. MOORE,
C. Engineer.

White Water Canal.

No. 83.

June 3d, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 125 of the White Water Canal, James Quinlan, contractor, to the value of six dollars 25 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$6 25
Former estimates,	823 00
Total,	$829 25

H. C. MOORE,
C. Engineer.

Endorsed "*Final.*"

White Water Canal.

No. 89.

July 30*th*, 1845.

H. Vallette: I certify that work has been performed on Section No. 129⅔ of the White Water Canal, Quinn & Fitzpatrick, contractor, to the value of eighty-three dollars 40 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$83 40	*Final.*
Former estimates,	1,738 00	
Total,	$1,821 40	

H. C. MOORE,
C. Engineer.

Endorsed "*Final.* Deduct advance."

White Water Canal.

No. 88.

July 14*th*, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 126 of the White Water Canal, Russel & Garst, contractor, to the value of two hundred and ninety-four dollars, 78 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$294 78
Former estimates,	1,568 00
Total,	$1,862 78

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: "*Final.*

"Deduct claims—

Samuel Cammach,	$46 36
Pat. Henry,	6 50
Wm. Doroles,	9 68
Jerry O'Brien,	11 97
Michael Matigan,	38 43
Timothy Made,	7 25
Lervis & Vallette,	5 00
	$125 19

"Also deduct advance.
"Retain till I give another order, $25. H. C. M."

White Water Canal.
No. 90.

Aug. 5th, 1845.

H. Vallette—Sir: I certify that work has been performed on Section No. 130 of the White Water Canal, Quin & Fitzpatrick, contractor, to the value of three hundred and twenty-nine dollars, 40 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$329 40
Former estimates,	740 00
Total,	$1,069 40

H. C. MOORE,
C. Engineer.

Endorsed: *Final.* "Deduct claim."
Retain $10, till I send you another order to pay it."

White Water Canal.
No. 84.

July 9th, 1845.

I certify that work has been performed on section No. 121 of the White Water Canal, H. & H. Pierce, contractor to the value of one hundred and sixty-three dollars 91 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$163 91 *Final.*
Former estimates,	$526 00
Total,	$689 91

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*"

White Water Canal.
No. 87.

July 12th, 1845.

I certify that work has been performed on section No. 122 of the White Water Canal, McCarty, Brady & Co., contractor, to the value of one hundred and ninety-nine dollars 7½ cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$199 07½ *Final.*
Former estimates,	$765 00
Total,	$964 07½

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*"
"Deduct advances and claims, if any."

White Water Canal.

No. 101.

August 29th, 1845.

H. Vallette: I certify that work has been performed on section No. 132 of the White Water Canal, Duncan & Hastell, contractor, to the value of twelve hundred and eighty-seven dollars 30 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,387 30	*Final.*
Former estimates,	$6,100 00	
Total,	$7,487 30	

H. C. MOORE,
C. Engineer.

Endorsed as follows, to wit: *Final.*

Deduct for iron and cement,	$805 50
John Merringer,	27 05
Jacob Smith,	22 00
Rockafellow & Dubey,	253 00
Samson Grey,	3 26
Enoch Modlin,	11 95
James Calloway,	4 00
Iene Hiatt,	173 00
Harrison Watkins, retain,	78 77
	$1,378 00

"Retain till you get further orders from me, $200."

White Water Canal.

No. 102.

Sept. 3d, 1845.

I certify that work has been performed on section No. 127 of the White Water Canal, Kirk & Pierce, contractor, to the value of six hundred and sixty-nine dollars 96 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$669 96	*Final.*
Former estimates,	$4,900 00	
Total,	$5,569 96	

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*"

Deduct for iron and cement for H. Vallette, $387 49 and advances.

White Water Canal.

No. 98.

August 21*st*, 1845.

H. Vallette: I certify that work has been performed on section No. C of the White Water Canal, N. W. Cline, contractor, to the value of nine hundred and thirteen dollars 24½ cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$913 24½	*Final.*
Former estimates,	$4,900 00	
Total,	$5,813 24½	

H. C. MOORE,
C. Engineer.

Endorsed: "*Final.*"
Deduct for Iron, &c., $379 43½.
And retain $20 till I give another certificate.

Oct. 30*th*, 1845.

Pay the above $20, and also $10 more, being for increase of estimate.

	$913 24½
Add	10 00
	$923 24½

H. C. MOORE,
Eng'r.

No. 97.

August 20*th*, 1845.

H. Vallette: I certify that work has been performed on section No. 117 of the White Water Canal, Heimer & Myers, contractor, to the value of eleven hundred and forty-seven dollars 71 cents, in addition to the sums previously certified, estimated agreeably to the terms of the contract.

Present estimate,	$1,147 71	*Final.*
Former estimates,	$2,713 00	
Total,	$3,860 71	

H. C. MOORE,
C. Engineer.

Deposition of Meredith Helm and others, of the County of Fayette and State of Indiana, commenced before me on the first day of November, A. D. 1855, at my office, in the town of Connersville, be-

tween the hours of eight o'clock A. M. and six o'clock P. M., on said day pursuant to the enclosed notice, to be read in evidence in the cause pending before the Circuit Court of the United States, District of Indiana, in Chancery, in which Henry Vallette is complainant, and the White Water Valley Canal Company is defendant.

And the said Meredith Helm being by me, John S. Reid, sole Judge of the Court of Common Pleas, in and for said District of Franklin, Fayette, and Union, duly sworn to tell the truth, the whole truth, and nothing but the truth, on his oath deposes and says in answer to the following questions:—

Question 1st. State if you have ever been an officer in the White Water Valley Canal Company. And if so, state *state* in what office, and when, and how long.

Answer. I was the President from the commencement until the work was finished, and some time longer, and until January, 1846 (one thousand eight hundred and forty-six).

Question 2d. State what was the early condition of the canal during the early part of summer, 1844, and whether or not you made application for loans from banks about that time. If yes, say for what banks, and the result of the company's efforts in that behalf. (Objected to by deft's counsel.)

Answer. The condition of the company was bad as to means to carry on the work, and we applied to two banks in Cincinnati for loans, viz., the Franklin and Lafayette Banks, but did not succeed, as they demanded individual security and mortgage, which we could not nor would not give. The mortgage security was to be double the amount.

Question 3d. State when you first saw Mr. Vallette, the complainant, and what you remember of making requests of him to come to Connersville, and for what purpose if you made such requests.

Answer. I saw him some time in June, 1844. Was introduced to him by a Mr. Taylor, of Cincinnati, and I requested him to come to Connersville, as we wanted means; and I understood that he had them, and wanted him to come to make some arrangement with us by which we could finish the work.

Question 4th. State whether or not you made a proposal for a loan of money at that interview. And if so, state what the character of that proposition was, and what occurred then.

Answer. I did not feel authorized to make him any proposition for a loan, but only to the two banks, and did not make any to him.

Question 5th. State whether Vallette came to Connersville after that interview. If so, when, and what occurred there. State what you know of yourself and the Engineer of the Canal Company, and Vallette, examining the line of the canal, and for what purpose this examination was made.

Answer. Mr. Vallette came in a few days after that to Connersville, and he, Mr. Moore, Engineer, and myself, went up the line of the canal to Cambridge to see the nature of the work to be done—the

condition of the work to be done with reference to making a contract of some kind.

Question 6th. State if there was a contract made between Vallette and the company, and the object of that contract, if so made. (Objected to by deft's counsel.)

Answer. There was a contract made by Vallette and the company, and reduced to writing. There were two copies of it made, one of which is an exhibit "*O*" in the deposition of Sam. W. Parker, endorsed by Miles Murphy, Daniel Hanknes, S. W. Parker, Benjamin F. Reeves, and John Crum. The object of the contract was to get the work done from a little above Connersville to Cambridge City.

(Ans. objected to by deft's counsel so far as states the object of the contract by parol.)

Question 7th. State whether or not Vallette did not make a written proposition to the company before the above referred to contract was made. If yes, state what alterations were made in the contract different from the original proposition. (Objection made by deft's counsel.)

Answer 7th. Vallette made a proposition in writing before the contract was made; but I cannot say what were its terms, but think it was a wholesale offer, which was not accepted, and the final contract was made as before referred to. The written proposition had much to do with making the contract which was the result.

Question 8th. Look at the Exhibit marked B in the deposition of Mr. Parker before you, and state what that paper represents, and whether it has the seal of the company, and the signature of the secretary, Wm. Lawrence, on it?

Answer. Having examined the Exhibit B, I find that it has the seal of the company, and the signature of the secretary, Wm. Lawrence; and represents to be the minutes of a meeting of the board in reference to a meeting held by the board, and is a copy of the minutes of said meeting. (Objected to by defendant's counsel so far as relates to the examination of witness in representing the meaning of the paper marked B.)

Question 9th. Does the paper marked B, last referred to, show the proceedings of the Board of Directors of the canal company in reference to the proposition and contract of Vallette?

Answer. I suppose it does, as it is a certified copy of the record on minutes of the board.

Question 10th. State what you know about Vallette performing this contract; and under whose superintendence as engineer was the work done, whether the work was, or was not accepted? State whether objections were made as to the manner in which this work was done, and by whom?

Answer. The contract was performed by Vallette, to the satisfaction of the engineer, and the company. Mr. Henry Moore was the engineer; and the work was accepted by the board. I did not

hear of any objections. Mr. Moore was the engineer of the company.

Question 11th. State who paid the engineer, and how, and in what manner the work done by Vallette was paid for. How often estimates were made as the work progressed, and by whom these estimates were made, and if bonds were executed for all the work. (Objected to in both by deft's counsel.)

Answer. The company had the engineer hired by the year, and paid him. The work done by Vallette was paid for in bonds, payable in New York, bearing interest at seven per cent. by the company. I cannot say certain, but think that estimates were made every sixty days—this was the rule of the company, and made by our engineer, Mr. Henry C. Moore. Bonds were executed for the value of the work as it progressed, and dated at the time they were issued.

Question 12th. State who signed these bonds as president and secretary of the canal company, and how often, and what amount of bonds were given from time to time. State also what you know of the bonds first issued being afterwards taken up and others substituted therefor.

Answer. The bonds were signed by me as President, and L. B. Tupper, as Secretary. I cannot say what the amount of bonds were given, but think that they were equal to the amount of the estimates of the engineer, less ten per cent. retained by the company. The bonds originally given by the company during the progress of the work were all taken up on its completion, and a new batch of bonds issued of one date, bearing 7 per cent. interest, and payable in New York. We endeavored to arrange the time of the old bonds, and made them all of one date, so as to do justice to both parties, this being more convenient for both parties.

Question 13th. State what part, if any, was taken by Mr. S. W. Parker, in the negotiation between Henry Vallette and the White Water Valley Canal Company, and state at whose request he acted in the negotiation. (Objected to by deft's counsel.)

Answer. Mr. Parker was active in bringing about the negotiation, and took considerable interest in it as he did in all our affairs; so far as I am concerned he acted by my request, and with the general approbation of the board, so far as I remember.

Question 14th. State whether or not you directed him, you yourself, as president of the company (I am not speaking of the Board) to protect the interests of Vallette, as well as those of the company in that negotiation. If yea, state your reasons for making that request to Mr. Parker. (Objected to by def't's counsel.)

Answer. I requested Mr. Parker myself to act as the mutual adviser of Vallette and the company, in order to quiet and satisfy Vallette that we wished to take no advantage of him in that negotiation. This I did as president of the company.

Question 15. State whether or not Mr. Parker did act as the

mutual friend and adviser of the Canal Company and Vallette, in negotiating the contract between them. (Objected to by def't's counsel.)

Answer. I so understood it throughout that Mr. Parker was the mutual adviser and the friend of both, so far as I know; that he was the friend of the company I know, and from appearances I believed him the friend of Vallette also.

Question 16th. State who were directors of the Canal Company when the contract was made with Vallette, and who of them are now living.

Answer. Miles Murphy, Benjamin F. Reer, David Mount, John Crum, Daniel Sinks, Caleb Jackson, Daniel Hankins, Solomon Claypool, and myself; all are alive, except David Mount, Solomon Claypool, David Sinks and Caleb Jackson.

Question 17th. State how said contract was regarded by the stockholders of the company generally, and the community where it was made, and state whether or not it was advantageous to said Canal Company; and if so, how? (Objected to by def't's counsel.)

Answer. I think that the contract was favorably regarded as advantageous to the company by the company generally, and the community also, as being the means of finishing the canal.

Question 18th. State whether or not the company had a circulating medium about the time of the making of the contract with Vallette. If yea, the character and value of it at that time; also, the influence said contract had on it, or the credit of it. (Objected to by def't's counsel.)

Answer. The company had issued small certificates of ones, twos, and five dollars, which were given to the contractors in payment of their work. At the time of the contract being made, the market value of the certificates were very low, but on the ratification of the contract, they began to get better and go up to something like 87 cents; they had been down to 60. The reason was, the community believed that by this contract no more certificates would be issued for the work above, and the rest would get better or come up, which it did.

Question 19. State what you know about a loan of money from Vallette to said Canal Company, about the time he made the contract with them.

Answer. I know nothing of any loan. I only know of the contract, and the issuing of the bonds thereon.

Question 20. State what you know, or have reason to believe, about any device or management between Mr. Vallette and said Canal Company, to evade the usury laws of Indiana, or to cover up a loan of money from Vallette to said Canal Company in making said contract. (Objected to by def't's counsel.)

Answer. I know nothing of any such device or arrangement. I thought it was all right; and there was none, so far as I know or believe, to evade the usury laws of Indiana; nor was there any device

or arrangement to cover up a loan of money from Vallette to said company, as I know of no such loan.

Question 21. State what were your opportunities of knowing, had a loan have been made by said Vallette to said Canal Company; or if management or device had been intended by said Vallette and said Canal Company, to cover up a loan of money under said contract? (Objected to by the def't's counsel.)

Answer. I was President of the Board, and was generally present at all their meetings, and as such President would have known had a loan of money been made, or any management or device intended by the parties to cover a loan under the contracts, had such been intended.

By consent the parties adjourned until to-morrow morning at 9 o'clock.

Half-past 4 o'clock P. M.

JNO. S. REID.

Friday morning 2d November, 1855.

Parties met pursuant to adjournment.

Question 22. State whether or not the contract between said Vallette and said Canal Company was made in good faith, and what you know of both parties acting with a full knowledge of the condition of the company at the time the contract was made?

State whether or not Vallette practised unfairness or deception to obtain said contract; state how long the Board was in session, also for what purpose you put your name on the contract with Vallette and the company? (Objected to by def't's counsel.)

Answer. The contract was made in good faith as far as I believe or know. Both parties had an opportunity of knowing the condition of the com., and I suppose they both knew at the time. I do not know of any unfairness or deception practiced by Vallette. The Board was in session I think about four days engaged in that business, or arranging the contract; I put my name on the contract in order to make it legal, as I suppose, as this was our rule.

Question 23. State what you know about any loan of money being discussed by the Board of Directors, or made by Vallette to the Canal Company at the time of making said contract, or afterwards?

Answer. I know of no loan having ever been made by Vallette to the company, nor of any discussion about one so far as I remember. I know of nothing but as relates to the contract.

Question 24. Look at the paper marked B B, in the deposition of Mr. Parker, and state whether or not you can identify on it the seal of the Canal Company, and the handwriting of W. E. Lawrence, the Secretary thereof; and state what that paper represents? (Objections made by def't's counsel.)

Ans. I have examined the paper B B, and know the seal of the company to be impressed thereon, and know the certificate to be in

the handwriting of W. E. Lawrence, the Secretary of the company. suppose that it is what it purports to be, a record of the minutes of the Board, made in relation to the issuing of the bonds on the contract with Vallette.

Question 25. State what part of the canal was in process of construction by the Company when the contract was made with Vallette; and state what would have been the ability of the Company from appearances at that time to have finished such parts of the canal had the contracts with Vallette not have been made; and state whether the Company had not anticipated all of their available means at that time.

(Objections made by defendant's counsel.)

Answer. There was none of it finished higher up than Laurel, about 12 miles below Connersville. Our available means were well nigh exhausted, and we could not have continued the work ten days longer had the contract not have been made with Vallette or some other person.

Question 26. State whether or not Vallette took all the risks of the work on his contract; and state what objections you have heard against the character of the work done by Vallette after it was accepted by the Company; and if you have heard objections, state the time when, and the place where, the same were made.

(Objections made by defendant's counsel.)

Answer. Vallette took all the risks of the contracts as any other contractor would. I did not hear any objections as to the character of the work, either at the time when it was accepted, nor since.

Question 27. State as near as you can when the last issue of bonds were made to Vallette by the Company, being in exchange for the first batch.

Answer. I do not exactly remember when they were issued, but it was not long after the order was made, ordering the same—referred to in paper marked B B, in Parker's deposition.

Question 28. Look at this paper *paper* marked E E, and state if you can recognize on it the seal of this Company, and the signature of W. E. Lawrence and *and* A. B. Conwell, the Secretary and President of the said Canal Company.

(Objected to by defendant's counsel.)

Answer. I have examined the paper E E, and recognized the seal of the Company on it—also the signatures of W. E. Lawrence, the Secretary, and A. B. Conwell, the President of said Company, which I know to be genuine.

The paper E E, referred to above.

At a meeting of the Board of Directors of the White water Canal Company on 26th March, 1855, it was ordered—

That the President of the Company inform Henry Vallette and the other bondholders of the issue of $116,000 to said Vallette; that a break has recently occurred in the Lawrenceburgh branch, about 6 miles below Harrison, requiring an expenditure of $1,000, and

unless it is repaired immediately, much farther damage will be done, requiring a larger outlay. It is understood by the Board that there are individuals who will advance the money necessary to make the said repairs in case they can rely on the tolls and water rents on that portion of the canal for the re-payment of the same; and that the said Vallette and the other holders of said bonds will waive any rights they may have to said tolls and water rents until the expenses are fully paid out of the same.

Attest, W. E. LAWRENCE, *Sec'y.*

Mr. Henry Vallette—

Above please find order passed by our Board yesterday. Please write me by return mail whether you accept the proposition.

A. B. CONWELL, *Pres't.*

Question 29. Look at the bonds now shown to you, and state if you know the time when they were issued, by whose authority they were issued, what seal is on them? State by whom they are signed as President and Secretary, and what offices the signers held in the Company, and identify this bond, and all the others, with some mark or signature.

Answer. The bonds bear date the 1st day of February, 1845, but when they were delivered to Vallette, or issued, I cannot say. The bonds shown me are signed by me as President, and L. B. Tupper, as Secretary, which offices these gentlemen then respectively held in the Company, which bonds I mark with the letter "H," and by such are identified. There are eighty-six bonds in all, and all marked "H" as aforesaid on the top of the bond.

The original examination of Meredith Helm closed at 11 o'clock, A. M., and his deposition handed to the defendant's attorney for examination, in order to enable him to cross-examine the said witness.

Cross-examined. 1 *o'clock P. M.*

The respondent by her counsel protests against the taking of this deposition, and in cross-examining said witness. There is no right to object to the taking of the same at this time to the authority of the officer to take the said deposition, and to make all other objections whatever, to the use of said deposition on the submission on trial of this cause warranted by the facts and the law.

Question 1st. How long is it since you ceased to have any connection with said company?

Answer. My connection with said company ceased as President on about the day of Jan'y, 1846, and as Director in 1848, same month.

Question 2d. Did the Board of Directors authorize Messrs. Geo. Graham and Griffin Taylor, of Cincinnati, to make a loan of $100,000 for the use of said company, and did they prepare bonds

therefore in the sum of $1,000, each bearing 6 p. c. interest, payable in advance in New York, the principal being payable in ten years.

Answer. The bonds authorized said loan to be made by said gentlemen. Mr. Taylor reported that he had gone east, and had tried to make said loan, but failed. Do not remember that they had prepared the bonds for said purpose.

Question 3. Did Messrs. Graham & Taylor visit New York to effect said loan, and what offers did they receive therein for said bonds?

Answer. They reported through Mr. Taylor that they had been at New York for said purpose, but said that they could obtain no offer.

Question 4th. Was the credit of the company very much depressed in June, 1844, and were the directors anxious to make a loan, and were applications therefore made to different individuals?

Answer. The credit of the company was very much depressed all the time, and also during that time. The first arrangement referred to, to be made through Taylor & Graham, was the first attempt made that we tried to get a loan that I recollect of. The directors were anxious to obtain means to finish the work, either by a loan or some other way, and we knew of no other way than by using the bonds either by loan or some other way. There were three applications made by the board, one to New York through Graham & Taylor, one to Cincinnati to the Franklin and Lafayette Banks, and the other to Vallette.

Question 5th. How much did the directors desire to loan or borrow in June, 1844, and for what purpose did they wish the loan.

Answer. They authorized a loan to be obtained of $125,000 (say one hundred and twenty-five thousand dollars) in order to, and for the purpose of finishing the work.

Question 6. State what was the business of Vallette; where did he reside at the time this contract was made or entered into, and whether he had ever been a contractor for building and repairing canals and other public improvements previously, and if so, where and when, and whether his business had not previously been, and was not at the time and since, a broker and money-lender or dealer, and not a contractor. (Object to the question by Plff.)

Answer. Mr. Vallette resided in Cincinnati at the time of the making of the contract, and I do not know of myself what his business was, nor do I know whether he had ever been a contractor on public works or not. Nor do I know of myself what he has been doing since.

Question 7. Did you ever hear or know of his being engaged on any work or public improvement in any capacity whatever either before or since the transaction with the Canal Company, or that he has any knowledge or experience in the repairing or building of canals or other public works; and has he not the reputation of being

engaged in the capacity of a broker or money-lender or dealer. (Objected to by plffs. as irrelevant.)

Answer. I never heard, nor do I know, of Vallette being engaged on any work or public improvement, except the one in question, viz., the Canal; nor do I know by information or otherwise that he has any experience in building or repairing canals or other public works, but understood from information that he had the reputation of being engaged as banker or broker in Cincinnati, but his was not a bank of issue.

Question 8. Were you limited by the board in June, 1844, in your visit to Cincinnati to procure a loan for the company, to any special terms.

Answer. I do not recollect that there was any limit.

Question 9th. Were not the terms of Vallette's proposition arranged and agreed upon between him and the Board before the same was drawn up as presented?

Answer. I do not know whether it was or not.

Question 10. In what manner was the sum of $125,000 mentioned in the proposition of Vallette arrived at?

Answer. The Board supposed that they would want that sum. I know of no certain reason.

Question 11. Was the proposition of Vallette accepted with the understanding that the sum of $125,000 would give him or thereabout one hundred per cent. on his investment, or the amount that should be advanced by him in said work?

Answer. I do not know that there was any understanding or calculation made as to the per cent. that he would obtain by the contract, nor did I ever hear of any.

Question 12. Was it understood between the parties that the bonds to be issued to Vallette as contemplated in his proposition were to be secured by a pledge of the canal and the property of the company, as authorized by section 18 of the charter of the company? (Objected to by pl'ff.)

Answer. I suppose the bonds were drawn in conformity to section 18, but I do not recollect whether it was so set out in the bonds, nor do I recollect what the particular understanding was, but think that they understood it as expressed in the bonds.

Question 13. What was the object of the bond of $500 mentioned in the proposition of Vallette?

Answer. I do not now remember the object of it, and had forgotten all about it until it was called to my memory lately.

Question 14. Was not all the canal not constructed and not in process of construction in June, 1844, included in the proposition of Vallette?

Answer. His proposition included all the canal which had not been previously let.

Question 15. Did the proposition of Vallette embrace more than

therefore in the sum of $1,000, each bearing 6 p. c. interest, payable in advance in New York, the principal being payable in ten years.

Answer. The bonds authorized said loan to be made by said gentlemen. Mr. Taylor reported that he had gone east, and had tried to make said loan, but failed. Do not remember that they had prepared the bonds for said purpose.

Question 3. Did Messrs. Graham & Taylor visit New York to effect said loan, and what offers did they receive therein for said bonds?

Answer. They reported through Mr. Taylor that they had been at New York for said purpose, but said that they could obtain no offer.

Question 4th. Was the credit of the company very much depressed in June, 1844, and were the directors anxious to make a loan, and were applications therefore made to different individuals?

Answer. The credit of the company was very much depressed all the time, and also during that time. The first arrangement referred to, to be made through Taylor & Graham, was the first attempt made that we tried to get a loan that I recollect of. The directors were anxious to obtain means to finish the work, either by a loan or some other way, and we knew of no other way than by using the bonds either by loan or some other way. There were three applications made by the board, one to New York through Graham & Taylor, one to Cincinnati to the Franklin and Lafayette Banks, and the other to Vallette.

Question 5th. How much did the directors desire to loan or borrow in June, 1844, and for what purpose did they wish the loan.

Answer. They authorized a loan to be obtained of $125,000 (say one hundred and twenty-five thousand dollars) in order to, and for the purpose of finishing the work.

Question 6. State what was the business of Vallette; where did he reside at the time this contract was made or entered into, and whether he had ever been a contractor for building and repairing canals and other public improvements previously, and if so, where and when, and whether his business had not previously been, and was not at the time and since, a broker and money-lender or dealer, and not a contractor. (Object to the question by Plff.)

Answer. Mr. Vallette resided in Cincinnati at the time of the making of the contract, and I do not know of myself what his business was, nor do I know whether he had ever been a contractor on public works or not. Nor do I know of myself what he has been doing since.

Question 7. Did you ever hear or know of his being engaged on any work or public improvement in any capacity whatever either before or since the transaction with the Canal Company, or that he has any knowledge or experience in the repairing or building of canals or other public works; and has he not the reputation of being

engaged in the capacity of a broker or money-lender or dealer. (Objected to by plffs. as irrelevant.)

Answer. I never heard, nor do I know, of Vallette being engaged on any work or public improvement, except the one in question, viz., the Canal; nor do I know by information or otherwise that he has any experience in building or repairing canals or other public works, but understood from information that he had the reputation of being engaged as banker or broker in Cincinnati, but his was not a bank of issue.

Question 8. Were you limited by the board in June, 1844, in your visit to Cincinnati to procure a loan for the company, to any special terms.

Answer. I do not recollect that there was any limit.

Question 9th. Were not the terms of Vallette's proposition arranged and agreed upon between him and the Board before the same was drawn up as presented?

Answer. I do not know whether it was or not.

Question 10. In what manner was the sum of $125,000 mentioned in the proposition of Vallette arrived at?

Answer. The Board supposed that they would want that sum. I know of no certain reason.

Question 11. Was the proposition of Vallette accepted with the understanding that the sum of $125,000 would give him or thereabout one hundred per cent. on his investment, or the amount that should be advanced by him in said work?

Answer. I do not know that there was any understanding or calculation made as to the per cent. that he would obtain by the contract, nor did I ever hear of any.

Question 12. Was it understood between the parties that the bonds to be issued to Vallette as contemplated in his proposition were to be secured by a pledge of the canal and the property of the company, as authorized by section 18 of the charter of the company? (Objected to by pl'ff.)

Answer. I suppose the bonds were drawn in conformity to section 18, but I do not recollect whether it was so set out in the bonds, nor do I recollect what the particular understanding was, but think that they understood it as expressed in the bonds.

Question 13. What was the object of the bond of $500 mentioned in the proposition of Vallette?

Answer. I do not now remember the object of it, and had forgotten all about it until it was called to my memory lately.

Question 14. Was not all the canal not constructed and not in process of construction in June, 1844, included in the proposition of Vallette?

Answer. His proposition included all the canal which had not been previously let.

Question 15. Did the proposition of Vallette embrace more than

half the work or thereabouts on the line between Connersville and Cambridge?

Answer. Yes. It must have been over one-half, but how much I cannot say.

Question 16. Did the Board contract with Vallette in the same manner they let all the other work on the canal to their contractors?

Answer. It was a special contract with him. This we sometimes did with others. Sometimes the engineer made the letting, but this the Board did themselves. It was where the work had been abandoned by the first contractor that the Board made the other special contracts I refer to.

Question 17. Did not the Board in every other case give public notice of the proposed letting, and receive sealed proposals to do the work bid for? (Objected to by pl'ff as irrelevant.)

Answer. The Board generally made advertisements and received sealed proposals, but sometimes where the work advertised was not let the contract or section was held over, and let by the engineer as a special letting.

Question 18. Had the work embraced in the proposition of Vallette ever been advertised for letting?

Answer. The greater part had not. There might have been some that had been let and was abandoned, but the greater part had not been advertised.

Question 19. What was the estimate of the cost of the work by the engineer embraced in the propositions of Vallette?

Answer. I do not recollect what it was.

Question 20. Could not the whole of the work specified in said proposition have been let to contractors at less than the estimates of the engineer, and was not the same thus subsequently let by Vallette?

Answer. It could have been had we had anything to pay for it; and the same was subsequently let by Vallette to others at less than the estimates. (Question and answer objected to by pl'ff.)

Question 21. Were not the prices of the various kinds of work in the contract with Vallette fixed by the engineer of the company, by the direction of the board?

Answer. The prices were fixed mutually by the board and engineer. We did this together; don't know that there was any direct order so to do, as asked by def't. (Question and answer objected to by pl'tff as irrelevant.)

Question 22. Was Mr. Vallette possessed of any knowledge or experience sufficient to enable him to fix any of said prices, and was not the same entirely left by him to the company?

Answer. I do not know of my own knowledge that he had any experience sufficient to enable him to fix the prices, but it was not alone done by the company. It was a joint affair as finally agreed upon.

Question 23. On what bases were said prices fixed?

Answer. The bases was laid or taken on the prices which had been given by the State; so the engineer told us the way the pay was to be made to Vallette had something to do with it, but I do not know anything about the calculation. (The def't objects to the answer of the witness, so far as relates to the statement of the engineer.)

Question 24. State whether the amount paid to Vallette by the company was not 100 per cent., or thereabout, more than the estimated cost of the work; and whether the cost of the work was not less than the estimate, and how much?

Answer. It was considerably more than we had been paying, but I think not 100 per cent., but never having made the calculation, cannot say how much. The actual cost of the work by Vallette was less than the estimate made by the engineer to the board.

Question 25. State whether the board would have made the contract with Vallette had the board been in funds to do the work, and whether the contract was not made under peculiar pressure upon the company for means to do the work, and whether Mr. Vallette at the time the contract was entered into was not fully apprised of the necessities of the company? (Objected to by pl'ff.)

Answer. The board would not have made that contract, but the company was hard pressed at the time for means, and I presume that Vallette knew this at the time, as it was pretty notorious, and generally well known.

Question 25. Were the estimates of the cost of the work by the engineer of the company submitted to Mr. Vallette before his proposition was made out; and were they not withheld and kept private by the company in every other instance in the contracts of the company? (Objected to by pl'ff.)

Answer. I do not know whether they were or not in that instance. In the general letting of work the engineer kept the estimates as made by him private until the award of the work, and acceptance of the bids. In special lettings the engineer may have shown others, but I do not remember of any now where this was done.

Question 27. Do you pretend to say that Vallette in this transaction did not calculate to receive, and did he not receive one hundred per cent., or thereabouts upon the cash estimate and work done, and do you wish to be understood, as saying that Vallette did not consider his advances as money loaned, laid out, and expended for the use of the company in completing that part of the canal to be refunded with 100 per cent. by proceeds of the bonds in question? (Objected to by pl'ff.)

Answer. I do not know what the per cent. was; I never made an estimate, but he calculated to receive whatever his contract was. Nor do I know how he considered it. He was to have his bonds as the contract was, and he got them, but I do not know what his calculation was.

Question 28. Did the bonds which were to be issued by Vallette,

as contemplated by his proposition to the company, differ from those which were issued to him? If so, in what respect?

Answer. Witness does not know of any difference.

Question 29. Where was the sum of $125,000, mentioned in the bond issued to Vallette, obtained, or how was it adopted?

Answer. It was supposed that we would want, eventually, that amount, and this amount was authorized by the board.

Question 30. State under what section of the charter of the company the bonds in question were issued, and attach the section to this interrogatory.

Answer. I have no recollection under what section of the charter the bonds were issued. We trusted to the advice of Mr. Parker, who was our adviser in the matter.

Question 31. Under what section of the charter of the company did the Directors consider they were authorized to issue bonds for a loan of money to the company?

Answer. I see by the eighteenth section of the charter authorizes such bonds for a loan of money, and I suppose that it was under this section that the board acted, to which section he refers, and made a part of this answer by Exhibit "*A, B, C.*"

Exhibit A, B, C.

Section 18. The President and Directors of said company, or any agent of theirs thereunto by them lawfully authorized, shall have full power to negotiate any loan or loans that may be by said company deemed expedient for carrying out any or all of the objects contemplated by this act, and for the payment of such loans agreeably to the terms agreed upon; said company shall bind themselves by their bonds, which bond, when signed by the President and attested by the Secretary of the company, and by the company duly ordered to be issued, shall be a valid lien upon all the stock and effects of said company in the order of their issue, and all the effects of said company, both real and personal, shall be deemed and taken as a pledge for the punctual payment of the interest on said bond and the estimate redemption of the principal agreeably to contract.

Exhibit *A, B, C.*

Question 32. Is it your opinion that the bonds in question were issued by the Directors under the eighteenth section of the charter of the company? and if so, please attach the section to this interrogatory.

Answer. I suppose it was, but do not know. There may be other sections authorizing their issue. The section is already. Exhibit *A, B, C.*

Question 33. Would the Directors have preferred to issue their bonds to Vallette and receive the money directly from him to the plan adopted? (Objected to by pl'ff as irrelevant.)

Answer. Yes, I suppose they would.

Question 34. Did Vallette object to the paying over the money to the company and receiving the bonds therefor at once on the ground that the money might not be applied to the completion of that part of the canal embraced in his proposition, and that in such case the security of the bonds would be ineffectual? (Objected to by Pl'ff as an attempt to assume a fact that has not been proven and ought not to be asked.)

Answer. The Board never required him to do so, as there was nothing said by the company about a loan of money to him, and he made, therefore, no such excuse. There was something said by the members of the Board, but when or where I cannot now say, about him being safer on account of him having the contract than if anybody else had it, but Vallette was not present. (The dep't objects to the answer of the witness as not being in answer to the question.)

Question 35. Was it understood by the Board that Vallette preferred to pay out the money himself on that part of the canal embraced in his proposition, because in that case he could obtain for the bonds the security he desired in the completion of the canal? (Objected to by pl'ff on the grounds that a fact is assumed as proven in order to mislead the witness.)

Answer. Whether it was or was not so understood by the Board, I know not, but I heard the thing talked of.

Question 36. Did the Board entertain the opinion in the transaction with Vallette, that they were authorized to issue bonds under the 18 section of the charter of the company, and disposed of them at any price they saw proper to accept? And were the bonds in question issued to him under such opinion?

Answer. The Board thought and were of opinion that they had the right just to issue the bonds as they had done, but I do not know whether it was under this section or not, as there were others that might give the power; and the Board believed that they could dispose of them at any price which they saw fit to accept; and the bonds in question were issued to Vallette under such an opinion. (Objected to by pl'ff to the question and answer.)

Question 37. Were the bonds in question issued to Vallette as if upon a loan of money from him to the company, for the amount of the bonds?

Answer. They were not so issued.

Question 38. Would you have issued the bonds in question differently if you had issued them on a loan of money from Vallette to the company? And if so, state in what respect.

Answer. I cannot say whether they would have varied if we had been getting a loan of money or not.

Adjourned taking depositions until to-morrow at 9 o'clock A. M., 3d day of November, 1845.

Parties met pursuant to adjournment at 9 o'clock A. M. Present the pl'ff, Mr. Conwell, president of the company, and James A. Fay, Esq., attorney for the def't.

Cross-examined.

Question 39. How many bonds were issued to Vallette, and were they all of the said description?

Answer. To the best of my recollection there were one hundred and twelve bonds of $1000 each issued to him on the original contract, which were of the same description; there were some three or four issued to pay interest that had occurred, but I do not remember their dates nor amounts.

Question 40. Did those issued for interest differ from the other bonds, except with time they had to run? And were they not issued at seventy cents on the dollar?

Answer. I don't know that they did; but I have no recollection about what they were issued at.

Question 41. Were not all bonds issued without the seal of the company, and was it not so intended at the time, that they should be so issued? And is there any expression on the face of the bond referring to a seal?

Answer. I do not remember whether all the bonds or any were issued with the seal of the company or not, nor do I remember that it was so intended to issue them without the seal. On the blank bond shown me I do not see any expression on its face for a seal, and do not remember whether such was on the others or not.

Question 42. State what time the canal was finished to Connersville; also, if at the time of the contract with Vallette there were not parts of the canal from Laurel to Cambridge finished?

Answer. It was finished all the way about the same time, but I do not recollect when it was so finished exactly. I think there were parts finished from Laurel to Cambridge at the time the contract was finished by Vallette.

Question 43. Did not Vallette sub-contract the work embraced in his proposition, and was it not understood at the time of his contract that it would be sub-contracted? and did not his sub-contractors take all the risks he had taken?

Answer. He did so sub-contract it, and it was so understood that would be sub-contracted, but what risks was taken by his sub-contractor I do not know.

Question 44. Did you consider the financial condition of the company, in June, 1844, as merely temporally embarrassed?

Answer. I considered it permanently so.

Question 45. Did not the company, in June, 1844, hold a large amount of real estate unsold; and if so, state as near as you can what the amount was?

Answer. The company held a considerable amount of real estate at that time, but how much it is impossible for me to tell, or come anything near it.

Question 46. Was there not at the same time falling due to the company a large amount on account of subscription for stock?

Answer a large amount of the stock at that time was unpaid, but

there was very little due or falling due at that time; the subscription was a ten years' subscription.

Question 47. Does the report of the Secretary of the company, dated July 1st, 1844, contain the truth, and especially in reference to the means and liabilities of the company?

Answer. I do not know whether it does or not.

Question 48. Did you not see the report at the time it was published, and was it not intended to contain an accurate account of the condition of the company, and have you any reason to think that it does not contain such an account?

Answer. I suppose I saw it, and it was intended to convey or contain an accurate account of the company's condition, and I have no reason to think it does not contain such an account.

Question 49. Had the company any authority to issue a circulating medium; and was not the issue of the scrip considered a clever device to enable the company to proceed with the work faster than subscriptions for stock became available? (Objected to by pl'ff on account of its irrelevancy, and otherwise objectionable.)

Answer. I think not; nor did we do it as I understood it. The company considered it good policy to issue the certificates referred to by me already, the object of which was to enable the company to proceed with the work faster than subscriptions were due, they being chiefly ten years' subscriptions.

Question 50. State if the scrip was not issued to circulate as money so far as the company was concerned?

Answer. No; it was not so considered by them.

Question 51. Please state the object of its issue?

Answer. The object was to pledge it to the contractors as evidence of our debt to them, in order or in hope that they might pay it to the farmers and storekeepers, who were stockholders, along the line for produce, and that they in return could pay it into the company in payment of stock; a good deal of which was done.

Question 52. Was the scrip received by the contractors in satisfaction of their debt against the company? (Objected to by the pl'ff as having nothing to do with the points at issue.)

Answer. They received it in pledge of their debt, and as such it was satisfactory; but whether it was a legal payment or legally received by them or not, I do not know. Whether it was a payment in law or not I do not know.

Question 53. Was the scrip paid out to the contractors, put in circulation by them? (Objected to by pl'ff.)

Answer. It may have been to some extent; but most of it went to stockholders.

Question 54. In what way was it made redeemable? Objected to by pl'ff.

Answer. It was intended to be redeemable by the company, for tolls on the canal, in payment of real estate and stock due the company as well as I recollect.

Question 55. What was the object of the surrender of the bonds spoken of by you? Did it embrace the whole issue, viz., 112 or 116 bonds, or was it confined to the first thirty-five bonds issued, and in what respect did the new ones differ from the old?

Answer. The object of the surrender was to get them all of one date falling due at the same time, and I think it embraced 112 bonds. I do not know that they differed except in date of time.

Question 56. When was the surrender and the new issue made?

Answer. I do not remember when the bonds were surrendered. The new issue was when the bonds were dated, I suppose.

Question 57. When was the work completed by Mr. Vallette for which he contracted?

Answer. I do not recollect. It was within a short time, and within the time of the contract.

Question 58. Were the proceedings in relation to the surrender and issue of the bonds, as testified to by you, entered among the records of the company?

Answer. I suppose they were.

Question 59. Was Mr. Moore, the engineer, in the pay of Vallette during the time of said contract on *on* acc't thereof?

Answer. He was the engineer of the company, and had an annual salary from it; but whether he was in the pay of Vallette I do not know.

Question 60. Did the members of the Board have any knowledge of the manner in which the work embraced in the contract of Vallette was done?

Answer. They had, I suppose, but very little knowledge themselves, relying on the engineer, Mr. Moore, in whom they had confidence in that as well as in other contracts.

Question 61. Did you know that the tumble walls of every lock embraced in the contract of Vallette were not put up according to the terms specified, and that one or two of them had fallen down in consequence thereof, and had to be rebuilt by the company, and that in every other instance the tumble walls had to be propped up to keep them from falling?

Answer. Of this I know nothing; never heard of it before to my recollection.

Question 62. Did the stockholders generally know that the terms of the contract with Vallette secured to him double the cash estimates of the engineer, or thereabouts, for the work embraced therein?

Answer. I do not know that the majority of them knew at that time much about it, they being very numerous, and residing in different counties.

Question 63. What do you know of the canal having broken after it had been completed, what was the extent of the breach, and the cost of the repair?

Answer. The first break was about the 1st day of January, 1847, the breach was very extensive, and the cost estimated by the en-

gineer at ninety thousand dollars, an official report of which was made by him to the company, but it cost a great deal more than that.

Question 64. State who repaired the canal after it had been broken, and whether Vallette did not refuse to repair the same when applied to for that purpose, and state what would have been the earnings of the canal if the repairs had not been made, and what the damages to the renters of water power to their mills or otherwise? (Objected to by pl'ff as irrelevant.)

Answer. The company repaired the canal after this break. I think Mr. Vallette was applied to for aid, and I think that he gave something, but how much I do not know. Had the repairs not been made the earnings of the canal would have been comparatively nothing, and the damage to the renters of the water power extensive, but to what amount it is impossible for me to say.

Question 65. What do you know of the canal having been broken at other times, and when was it; what was the extent of each several breach, and what the cost of repair? (Objected to by pl'ff.)

Answer. I know that it was broken at other times; the second great break was not quite a year after the first; and the expenses nearly equal to the first break. As to the breaks since then, there have been several, but I cannot fix the times, nor the cost of repair.

Question 66. Was there not a break in the canal at or near the close of the year 1852? What was the extent of it, and what the cost of repair, as near as you can form an opinion from the extent of the breach? (Objected to by pl'ff.)

Answer. There was a break of the canal then, which was extensive, but cannot say the extent. As I was not on the Board, nor interested, I cannot say what it cost to repair it. My opinion would be so vague that I would rather not give any.

Question 67. State who repaired the several breaches of the canal which occurred at these several times last mentioned, and whether Vallette did not refuse to repair the same when applied to for that purpose, and state what would have been the earnings of the canal at each successive break if the repairs had not successively been made as the breaks occurred, and what the damages to the renters of water-power to their mills or otherwise? (Objected to by pl'ff.)

Answer. I suppose the Company repaired them. I do not know whether Vallette was applied to, or refused if he was applied to. The earnings of the canal, had the repairs not have been made, would have been almost nothing. The damages to the renters of the water-power, to their mills, or otherwise, would have been extensive, but how much I cannot say.

Question 68. State what you know of Vallette's agreeing with the persons who afterwards made the repairs, or furnished means therefor, and that if they would do so, they should receive their pay from tolls and water-rents of the canal in preference to all other debts of the Company.

Answer. I know nothing about it, nor do I know of my own knowledge anything about it.

Question 69. Prior to the flood of 1847 in the White Water river, and other streams running into the same, had any apprehensions been entertained by any one in regard to the liability of the canal to any serious damage from the high waters? (Objected to by pl'ff.)

Answer. Some apprehensions were entertained by myself, and I believe, by others—all canals are liable to more or less injury from freshets.

Question 70. Was not the canal, as originally located and constructed, including dams and aqueducts, considered at the time sufficiently guarded and protected against any flood in the White Water river that had ever been known in the country? (Objected to by pl'ff.)

Answer. I suppose that this was the calculation of the engineer, and I supposed so myself.

Question 71. Had not the canal from Lawrenceburg to Brookville been constructed for some nine years previous to the organization of the Company, and had any injury occurred to it from flood or high water during that time, and has it not been one of the most expensive portions of the canal to repair and protect it against the floods of the White Water river? (Objected to by pl'ff.)

Answer. The canal had been constructed for some years, how many I do not remember, previous to the great flood; but previous to its coming into the hands of the Company in 1842 or 1843. I know nothing about it. After this we had to make some considerable repairs on this portion of it, prior to the great flood of 1847, and it is or has been one of the most expensive portions to keep up in repair.

Question 72. In your visit to Cincinnati, in June, 1844, would you not have felt authorized to make a loan for the use of the company of any one from whom you could have obtained it on satisfactory terms? (Objected to by pl'ff.)

Answer. I did not feel authorized so to do, but was, as I understood, referred to the two banks before named.

Question 73. Had the bonds of the company been offered in market for a loan prior to your visit to Cincinnati, and do you know or have you reason to believe that Mr. Vallette, prior to or about the time you were in the city, had expressed a desire to obtain the bonds of the company?

Answer. No bonds had been issued at that time. So far as I heard or knew, he had expressed no such desire.

Question 74. What individuals did you call upon on your visit to Cincinnati in reference to a loan for the use of the company? (Objects to the question by pl'ff.)

Answer. I called on Griffin Taylor alone, as I understood he represented the two banks to whom I went to get money off.

Question 75. Had the Board made any provision or order for a

loan off the banks you named prior to your visit to the city, and if so, state what such order or provision was?

Answer. I suppose there was an order made by them on the subject, but I do not recollect what it was.

Question 76. On what terms or conditions were you authorized to make a loan of said banks, and were these terms and conditions reduced to writing?

Answer. I do not now remember the terms and conditions; whether they were reduced to writing I do not now remember; they may or may not have been so.

Question 77. Was there an act of the Board authorizing you to proceed to the city to procure a loan, at the time referred to, for the use of the company?

Answer. I do not recollect that there was any act of the Board in writing authorizing me to procure a loan, but I was verbally authorized by them to go down and perfect or close the transaction commenced by Col. Hankins with the banks that had agreed to loan some $18,000

Question 78. Had Col. Hankins been authorized by any act of the Board to go to the city and procure said loan, or a loan for the company?

Answer. I am not certain whether there is any record of his authority, but I am certain that he was authorized in some way so to do.

Question 79. What attempts did Col. Hankins make to procure said loan prior to your visit to the city?

Answer. I do not know of myself, but, on his return, he said that he had conferred with those banks, and the money could be had. (Objected to by pl'ff.)

Question 80. Was Mr. Vallette aware before you called on him that you were in the city to procure a loan for the use of the company?

Answer. I do not know that he was aware, but was under the impression that he did not.

Question 81. Did you inform Mr. Vallette of your business in the city? (Objected to by pl'ff as irrelevant.)

Answer. I think it probable I did, but I do not recollect whether I did or not.

Question 82. Will you please to state, according to the best of your recollection, the conversation you had with Vallette the time you called on him?

Answer. I cannot recollect the conversation. My object in conversing with him was to bring him up to this Board, and I thought that we could manage him. He talked a good deal, and I a little, but I cannot attempt to give the conversation now.

Question 83. Was anything said in that or any other conversation with Mr. Vallette about a loan to the company according to the best of your recollection?

Answer. No, I think not. Some arrangement was talked of, but

I did not think that we could make any loan in the ordinary way. I recollect of no other conversation on the subject of a loan.

Question 84. Why did you think a loan could not be made in the ordinary way?

Answer. I thought that we could not give the security which would probably be asked of us, and such as these two banks had asked.

Question 85. Why did not the Directors receive the amount of the estimated cost of the work, viz: the amount they desired to loan, and issue to Vallette the bonds in question?

Answer. I do not know what was their reason for it, only they preferred the course they pursued.

Question 86. Do you recollect the various modes of raising the money desired by the company proposed and discussed before the Board at the time of the presentation of the proposition of Mr. Vallette?

Answer. No, I cannot say that I do, it is so long ago.

Question 87. Were not the data exhibited to Mr. Vallette, and representations made to him by the directions of the Board in relation to said work and the cost thereof, such as to amount to a satisfactory assurance to him that the bonds to be issued therein would not cost him more than 50 cts., or thereabouts, to the dollar? and do you believe that without such data and representations, and a confidence in them on his part, he would have made such proposition or entered into such contract? (Objected to by pl'ff on the following grounds: That it is assuming as facts things not proven, and matters which it is impossible for the witness to know anything about.)

Answer. Some data, I presume, was presented to him, but what it amounted to I do not now recollect. I do not recollect what assurance was given him, and could not come within 15 or 20 per cent. as to what the bonds would cost him. He would not have done it without some data as a matter of course.

Question 88. By whom was these data furnished and exhibited, and by whom were representations made of the cost of the work by the authority or direction of the Board?

Answer. I suppose the Engineer, Mr. Moore, was consulted, and he, along with some member of the Board, may have exhibited the said data; but I took no part in it myself, nor do I remember specially who did. Nor do I know of any particular portion of the Board that made representations, nor of any other person.

Question 89. On what subject and for what purpose or object did Mr. Vallette desire Mr. Parker's advice?

Answer. I do not know.

Question 90. Was there not a large issue of scrip by the company after the contract with Vallette? (Objected to by pl'ff.)

Answer. There was some certificates of stock, as was called by the company, issued, but not a very large amount. This was after the contract with Vallette.

Question 91. Was the act entitled an act to legalize certain pro-

ceedings therein named passed and approved by the Legislature of Indiana, January 4th, 1845, in reference to the bonds of Vallette, submitted to the Board of Directors, and any action had thereon by the Directors either before or after its passage?

Answer. I do not recollect whether there was any action of the Board on said act or not.

Question 92. Do you consider that money should pass between parties in order to create a loan of money? (Objected to by pl'ff for the following reasons: That a witness should testify to facts and not to opinions, and is not expected to decide legal questions for either party.)

Answer. This appears to me a legal question, on which I am not confident to give an opinion.

Question 93. If the bonds in question were not issued upon a loan, by what authority were they issued, and please specify the authority for their issue?

Answer. They were issued on the authority of the board, but not considered by them as upon a loan.

Question 94. Did Mr. Vallette read to you a copy of Mr. Parker's deposition taken in this cause before Judge Reid, or did he read parts of it, or state to you how Mr. Parker had testified in relation to certain matters or questions? (Objected to by pl'ff for the following reasons: Because he does not ask the witness to state the fact, or otherwise, that these things were shown to the witness before he was sworn in this case.)

Answer. He read a part of it before I was sworn, I think the first part; I was then unwell, and requested him to stop, which he did. This was all that was done.

Question 95. State whether Vallette did not take your affidavit *ex-parte* to be read on an interlocutory motion in this cause; and state how often he has talked to you about this case, and what you would state?

Answer. He took my affidavit for the purpose specified in the question. He has occasionally spoken to me of this case, and it seemed to be uppermost in his mind, but I recollect nothing of importance that he stated. I do not recollect that he ever enquired what I would state as a witness.

Question 97. Have you not heretofore expressed yourself to the effect that the transaction of the company with Vallette was a loan, or a loan and a contract?

Answer. I do not know what I may have said on the subject, but the thing is just now as it is; the bonds were paid out on the contract.

Question 98. Did you state to Newton Claypool, and Sherman Schofield, in July last (or summer), in the store of Jeff. Claypool & Co. in this town, that the transaction of the company with Vallette in the issuing of said bonds was a loan, or a loan and contract together, or words to that effect?

Answer. I have no recollection of such conversation at all.

Question 99. Did you state in the same conversation above alluded to, that the company had no authority to issue the bonds in question, except in case of a loan, or words to that effect? (Objected to by pl'ff, and for reason says: The fact that statements of witnesses made months before the testimony is taken, and before the mind is properly trained by reflection on facts that have long since occurred, are frequently inaccurate, and should not impeach the testimony under oath of highly respectable persons.)

Answer. I have no recollection of the conversation at all, although some such conversation may have taken place, but I have no recollection that it did.

Question 100. Did you not state to W. E. Lawrence in the latter part of May last at your residence, that the debt to Vallette was a loan made in good faith, and ought to be paid, or words to that effect?

Answer. I have but a faint recollection of the conversation referred to, and if I called it a loan, I did not intend so. I have always said that it was a debt made in good faith, and ought to be paid, and so I then intended to be understood.

Question 101. Was Mr. Parker the attorney of the company from its organization up to the time that you ceased to have any connection with it?

Answer. I do not recollect that he was appointed attorney by the board, but he done most of our legal business from the time of its organization until he became president, and was then appointed president and attorney both by the board, and had a regular salary. Before that, I do not think that he had any regular salary from the company, or any regular appointment as attorney. If there is any such appointment it can be easily found on the records.

Question 102. Do you know if Mr. Vallette paid Mr. Parker for any advice or services of any character he may have rendered him, in connection with his transaction with the company?

Answer. I do not know that Vallette paid him anything.

Re-examination.

Question 1. In reference to your answer to question 99, on cross-examination, state whether or not some of the large stockholders of this company have or have not tried to intimidate you from giving testimony in this cause, by threatening to bring suit against you for large amounts of the dues of the company, now unpaid, with your signature on them as the President of the White Water Valley Canal Company.

(Objected to by defendant's counsel as being an original question, and not rebutting.)

Answer. One of the stockholders of the company, and a number of the Board at the time, for a friend who held some of the small certificates already referred to, dunned me for the payment, and

said that I had better pay it now, and if I would do so, it could be paid without interest; but there was no threats or intimidation except that which I have stated. This was before the commencement of this suit, say some time in 1853 or 1854.

Question 2. In reference to question No. 94, on cross examination, state what answers, in this deposition, you have made, from what you have heard of Mr. Parker's deposition, and what answers you have made on representations made to you by the pl'ff.

Answer. I do not think that either had any effect on my answers. If they had, I do not know it.

Question. 3. In answer to question No. 33, on cross-examination, you say the Directors would have preferred to have received the money from Vallette to the plan adopted. State whether or not the Board made proposals to Valette to receive money from him. If yea, state when such proposals were made, and the object of them.

(Objected to by def't's counsel.)

Answer. I do not recollect of any such proposals as therein stated in said question being made to Vallette.

Question 4. In answer to question No. 35, on cross-examination, you say you heard it talked of that Vallette preferred to pay out his money himself, to make his security more perfect. State what propositions were made to Vallette, that the Board of Directors should pay out money for him, and what you mean by "his making his security more perfect."

State whether or not you had reference the reversion of the canal to the State, under the charter of the company, if it was not finished.

(Objected to by def't's counsel.)

Answer. I do not know of any such propositions being made to him by the Board. My meaning in reference to Vallette making his security more perfect was that the canal would be finished within five years, and if it was, it would not then revert to the State, as it otherwise would have to do, if not finished within said time.

Question 5. In answer to question No. 36, on cross-examination, you say the Board believed they had a right to dispose of their bonds for what they could get for them. State as near as you can what you believed your bonds could have been disposed of for in cash, when you made the contract with Vallette.

(Objection by def't's counsel.)

Answer. Well, I cannot say: I do not know whether they could have been sold at all for money.

Question 6. In reference to your answer to question No. 10, on cross-examination, state whether or not the sum of $125,000, mentioned in the bonds issued to Vallette, and the same in his original proposition, was arrived at to show the amount of work the company supposed they would want done by Vallette; also the amount of debt created to pay for the same.

(Objected to by def't's counsel.)

Answer. I suppose that the sum was arrived at in that way by an

estimate of what amount they might want of work to finish the canal or work, as well as to show the amount of debt created to pay for the same.

Question 7. In reference to your reply to question No. 20, on cross-examination, you say you could have done the work for less than the estimates of the engineer, if the company had had the means to pay for the same. State what estimates you alluded to, and whether or not those estimates were shown to Vallette?

Answer. What I meant by the estimates referred to, on which ones they were, was the estimates of work by which we had been paying, but I do not know what estimates were shown to Vallette, or if these were.

Question 8. In reference to your reply to question No. 24, on cross-examination, where you state the actual cost of the work done by Vallette was less than the engineer's estimate, state how much less than this estimate Vallette got his work done for, and how you arrived at this knowledge.

Answer. I cannot state for how much less he got the work done, nor how I arrived at the knowledge, but I supposed it was less.

Question 9. In reference to question No. 25, on cross-examination, state whether or not the result of the contract with Vallette was advantageous to the company, and whether, in the long course of eleven years, since that contract was made, you have had reason to believe that the contract was otherwise than advantageous to the company, and state what you believe was the result of that contract to Vallette? (Objected to by def't's counsel.)

Answer. I now have and always have regarded the contract made with Vallette, as advantageous to the company. As to the result of the contract on Vallette, much depends on the result of this suit. The witness had stated before, that he wished to give no opinion on this point; altho' he had stated at first that this opinion depended on the result of the suit; but thinking it would not be a legal answer to the question, did not intend to give it as such until pressed by Mr. Vallette so to do, as he thought it was a legal one. (Defendant by counsel objects to the question and answer.)

M. HELM.

Adjourned at 5 minutes to six o'clock P. M., 3d November, 1855.

JNO. S. REID,
Judge.

Depositions of Samuel W. Parker and others, taken before John S. Reid, Judge of the Court of Common Pleas, of Fayette County, Indiana, in pursuance to the annexed notice, and at the office of the said Samuel W. Parker, Esq., in Connersville, commencing on Tuesday, the 16th of Oct., 1855, between the hours of 8 o'clock A. M., and 5 o'clock P. M., and to continue from day to day, until the whole are taken, which depositions will be read in evidence on the

hearing of the cause of Henry Vallette *vs.* The White Water Valley Canal Company, which suit is now pending in the 7th Circuit Court of the United States, District of Indiana.

And now, on the 16th day of Oct., 1855, personally came Samuel W. Parker, of lawful age, who, being by me duly sworn, to testify the truth, the whole truth, and nothing but the truth, in answer to the following questions, deposes and says:

1st Question. State if you are and have been acquainted with the business of the White Water Valley Canal Company, when you first became an officer of said company, and what you know about the contract said to have been made with Henry Vallette, by said company. State all you know connected with said contract. What part you took as an officer of the company in that behalf, and any other matter you know of interest to or affecting the rights of the parties to this suit.

Answer. I drafted the original charter of the White Water Valley Canal Company—was a member of the Indiana Legislature at the time—took an active part in procuring its passage, and subsequently in effecting the organization of the company. I was then selected and acted as the attorney of the company, and continued to act as such until the year 1846, when I was elected a Director and President of the company, and continued to act as President until the year 1847, when I was re-elected Director and President, but declined acting further in the latter capacity. In the meantime the canal was completed. During all this time I was intimate with *the* all the doings of the company, was consulted by them in all their business of any considerable importance, attended nearly if not quite all the sessions of the Board, drafted all their papers of importance, and the most of the important orders of the Board—up to the time I left the Presidency of the company. I think there was no one of its officers that understood the details of its business so intimately as I did. Since that time I have continued to reside in the same town (Connersville) where the principal office of the company has been, and still is kept, and the place where the Board has held its business meetings, and have occasionally been consulted by the members of the Board in reference to their business, and have been more or less intimate with the management of that business all the while. My official connection with the company commenced early in the year 1842. All the stock of the company was subscribed to be paid in ten annual instalments, according to my present recollection, and the company made the effort to take up the work of constructing the canal where the State left it, and pay for the same in the small certificates of the company's stock. These soon began to depreciate so that by the month of July, 1844, the company, for the want of stock payments, and because of the depreciation aforesaid, found it exceedingly difficult to progress with their work, they then tried their credit with the banks and others, for the purpose of raising funds, and finding that they could not succeed, Henry Vallette, the complainant, was called upon by Mr. Helm,

the President of the Board, in June, I think, of 1844, and solicited by him to meet the Board at an early day thereafter, and take a contract to finish the canal, or the larger portion of it. Mr. Vallette accordingly met the Board—passed along the line with the engineer, and probably some one or more of the members of the Board, to ascertain the character of the work to be done; he examined the estimates of the works, and finally made the company a proposition to do specified work for the company for the gross sum, as I recollect, of 125 of the company's bonds each for $1,000—at 10 years, and to draw an interest at the rate of 7 pr. ct. per annum. This original proposition was drawn by me, and my recollection is, that the paper herewith and marked ("A") is a true copy of the proposition. That proposition was accepted by the Board—their action thereon is evidenced by the copy taken from the journal of the Board herewith presented, attested by W. E. Lawrence, the present Secretary, and the seal of the company, and is now marked "B" herewith. This proposition had the entire sanction of the whole Board, with one exception, Judge Mount. At the time this proposition was accepted, I was directed by the members of the Board to draw out the contract in accordance therewith, in full form. But my recollection is, that before that was done on the suggestion of some one or more of the Board, the form of the contract was changed so that Mr. Vallette undertook to do the same work for specific prices for each of the various items of the work—this change, I believe, met with the entire approbation of the Board, and soon thereafter a contract was drawn out, as was usual in other cases of contracts, and embodied in one of the company's printed forms, that contract, as finally agreed upon, signed by Henry Vallette and Mr. Helm, the President of the company, at the time, and attested by L. B. Tupper, the Secretary at the time, whose signature I am, and was then well acquainted with and know to be genuine, as they appear on the contract—that contract is presented herewith and is marked (O), and also there is endorsed thereon the names of Daniel Hankins, Miles Murphy, Benjamin F. Reeve, and John Crum, who at the time were members of the Board, and with the said Helm, all the then Board who are now living. My own name is also endorsed on the contract. I am acquainted with the signatures of all said endorsers, and know them to be genuine, as thereon written. After the contract was executed as aforesaid, the complainant proceeded to execute the work he had undertaken, and pushed the same through with much vigor, and to the entire satisfaction of the company. The company confided to me the preparation of the form for the bonds that were issued to Vallette from time to time, in payment for his work, as estimates were made every sixty days, I think, by the company's engineer. These bonds, so issued, according to my recollection, bore the several dates of their several issues to the complainant, subsequently, and according to my recollection, after or about the time said complainant had completed his job, under the contract. All

the bonds that had been issued to him by the company were by him surrendered to the company, and a batch, all bearing a certain date that was agreed upon, was issued to pay the complainant in full, and these were the bonds finally delivered to him in payment for his said work. The work was all done under the supervision and direction of Henry C. Moore, Esq., the chief engineer of the company—he returned his estimates regularly into the office of the company, and the whole work was completed agreeably to the wishes of the company and accepted by them. (Defendant's counsel objected to this answer when made, and the objection is entered at the close of the examination-in-chief, for want of room. Jno. S. Reid, J.)

2 Question. State what you know was the condition of the credit of the company when the contract was made with Vallette, and state the effects the contract had on the credit and ability of the company. State what you know about the company having a circulating medium at that time, and the market value of it then, and after *it* the canal was finished.

Answer. In addition to what I have stated above in this behalf, I can say that the credit of the company was at that time so entirely prostrated that I am satisfied the work on the canal must have stopped for a while, if not forever, had not this contract been made. The effects of the contract was immediately felt in the revival of the credit of the company and the appreciation of their paper, upon which they had been compelled to operate, and it enabled the company to renew their own operations at once, and complete the retained work between Laurel and Connersville, and between Milton and Cambridge, so that they were enabled to get through about the time the complainant finished his portion of the work. The circulating medium of the company was their small certificates of stock, transferable from hand to hand without endorsement, and were, I think, of three denominations, to wit, 1s, 2s, and 3s. That medium started out about par for all the purposes of the company in the vicinity of the line of the canal, and gradually depreciated, so that at the time complainant entered into his contract it would not pass for much, if any more, than 50 cts. per $1. I think that was the price it was rated at then. After the canal was finished, the company had but little occasion to use that medium, and I do not remember its current value so well after, but am quite confident that it was considerably better than when complainant's contract was taken. The company took it in payment of stock and real estate.

State, if you can, how much money had been expended on that canal by the State of Indiana before it came into the hands of the company.

Answer. The State had completed the canal from the Ohio River at Lawrenceburgh to Brookville, and had done a large amount of work, and provided a large am't of stone and timber for the same along the line in places from Brookville to the National Road at

Cambridge City. My recollection is that the whole of this work and the materials had cost the State a few thousand over one million of dollars; the precise am't over a million I do not now recollect. My recollection is that between three and four hundred thousand dollars of that am't was expended along the line above Brookville.

Question 4. State whether or not you have heard, or if you know directly or indirectly, anything about a loan of money from said Vallette to said Canal Company, about the time Vallette made said contract with said company.

Answer. The company consulted me in all matters, I believe, in reference to said contract, from its inception to its conclusion. I drew all the papers in that behalf from first to last, and was particularly charged by the company with all the matters in that behalf. I never had any knowlege or information from any source from first to last, directly or indirectly, of any loan, or talk or suggestion of a loan of money by said Vallette to the company in the matter of this contract, or otherwise however, and am confident, from my whole connection with the matter, that if there had been anything of a loan of money in the case I would have known it. The only exception I make in this behalf is the fact that the bonds as framed and issued to said Vallette in payment of his said work, appears on their face to be predicated on a loan of money. The bonds were framed in that way upon the suggestion and at the request of said Vallette, because it was understood all around that his intention was, if possible, to dispose of the whole or a part of them in the New York market, where it was customary for such internal improvement bonds to appear as issued on a loan of money. Before assenting to this form, I consulted the members of the Board as to the propriety of so framing them, when it met with their full approbation; and it was so done because every member was anxious that the complainant should put off his bonds to the best advantage, as he had in all things come up to his engagements with the company.

Question 5th. State whether or not any device or management was intended by said Canal Company and said Vallette, to avoid the usury laws of the State of Indiana, in making said contract between said Canal Company and said Vallette, and state whether or not Vallette took all the risks of the work on his contract.

Answer. I am satisfied that there was no device or management had or intended between said Vallette and the Canal Company in the matter of this contract or otherwise however, in this connection, to avoid any usury laws of the State of Indiana or any other State. I never thought of such a thing myself, and never had an intimation of it from any source; and had there been anything of the kind I would certainly have known it, as I have said the whole matter in every shape it assumed was presented to me for my consideration. Vallette had all the risk of his contract on his own hands, until completed and taken off his hands by the company. And I have a strong impression on my own mind that in one if not more instances

he suffered by that risk in consequence of damage done his work while in progress by high waters.

Question 6th. Are you acquainted with the paper marked B B, exhibit, certified to by W. E. Lawrence, the Secretary of the Company, and state if you are acquainted with his handwriting?

Answer. I am acquainted with the handwriting of David Moore, former Secretary of the Company, and recognize his signature and the seal of the company attached to the extract from the journals of the Board and marked B B as genuine, also the subsequent signature of Lawrence, the present Secretary, attached to his certificate.

Adjourned until to-morrow morning at 8 o'clock.

1. Defendant's counsel, previous to the answer of the first question, objected to the witness stating anything acquired as attorney for the Company. Jno. S. Reid, Judge.

2. Defendant's counsel objects to all matters and things stated in answer to question No. 1, which appears to be derived from the information of others, and not from personal knowledge thereof; and also all matters of belief and impression; also all matters of which it appears to be written or record evidence; also all matters and things which the witness has acquired a knowledge of as attorney for the Company. John S. Reid, J.

3. Defendant's counsel objects to the whole of question No. 2, commencing with "and state" to the end thereof, and the answer thereto as illegal and irrelevant to the issue in this cause. Jno. S. Reid, J.

4. Defendant's counsel objects to question No. 3, and the answer thereto, on the ground of its illegality and irrelevancy. Jno. S. Reid, Judge.

5. Defendant's counsel objects to question No. 4, and the answer thereto, on the ground that it asks for illegal testimony. John S. Reid, J.

6. Defendant's counsel objects to question No. 5, and the answer thereto, on the ground that it asks for illegal testimony. Jno. S. Reid, J.

7. Defendant's counsel further objects to all matters and things testified to by the witness, of which he has acquired a knowledge as attorney for the Company. Jno. S. Reid, J.

8. Defendant's counsel further objects to the taking of this deposition as illegal, and contrary to the law in such case made and provided, and in cross-examining said witness waive no legal rights which they have in the premises, but expressly reserve their right to object to the reading of this deposition in this cause upon such legal ground as may be warranted by the facts in the case. Jno. S. Reid, J.

N. B. During the taking of the deposition the defendant's counsel wholly objected to the questions and answers, and would have made an entry thereof in writing at the end of each question and answer had there been room left, but the writer stated to him in the

presence of the other party that he would have the right of entering his objection at the end of the answers of Mr. Parker, on the original examination nunc pro tunc; and those objections numbered 1 to 8 inclusive, were made in accordance therewith, on the next morning (17th Oct.) before the cross-examination of Mr. Parker. The writer, however, heard of no verbal objection, as stated in No. 8, until this morning. Jno. S. Reid, Judge.

Cross-examination by Defendant's Counsel.

Question No. 1. Have you any personal knowledge of what took place when Mr. Helm called on Vallette in Cincinnati in June, 1844, as stated by you in your examination in chief?

Answer. I was not present at that interview, but was aware that Mr. Helm was sent to the city by the Board to make some such negotiation, and only know that he solicited Mr. Vallette to meet with the Board from the fact that he stated on his return that he had done so, and that he, Vallette, accordingly met the Board.

Question No. 2. Then your knowledge upon the subject is derived from the information of others, and not from personal knowledge?

Ans. That is your statement.

Question No. 3. When did you become the attorney of the Company, and how long did you continue as such?

Answer. I believe that I have already answered the matter inquired of substantially. It was, however, immediately after the organization of the Company, early in the year 1842. I continued to act as such until the year 1847 in all matters, and occasionally since as specially employed by the Company.

Question 4. Have you any personal knowledge of what passed before the Board of Directors of the Company, in relation to the contract between Vallette and the Company, the action of the Board thereon, and in relation to the bonds to be issued to Vallette therein, including all matters in relation to such contract and bonds other than acquired from your position as attorney for the Company?

Answer. I have stated that I got up the charter of the company. I was more active in procuring the organization of the company, and procured much more of the capital stock of the company than any other individual, and was personally solicited to take a seat on the Board of Directors first elected, but knowing that it was the wish of the Company that I should be their attorney, I declined. I was, as I have said, present with the Board at most of their meetings, and was their attorney at the time, but I cannot attribute the fact of my coming to a knowledge of the matters I have deposed to, to the circumstance alone that I was their attorney; and I will say further, that none of the facts that I have deposed to were confided to me in professional confidence. There was no secrecy, or any occasion for any, in the matter of the Company's negotiations, through me or otherwise, as I believe, with Mr. Vallette.

Question No. 5. Will you specify the facts to which you have testified of which you did not acquire knowledge as attorney for the Company?

Answer. I do not think I can respond any more specifically in this matter than I have.

Question 6. Did you not acquire your knowledge of the proposition of Vallette, testified to by you, as the attorney for the Company?

Answer. I cannot say I did.

Question No. 7. Will you state in what manner you did acquire that knowledge?

Answer. I think I have already.

Question 8th. Do you decline to answer the question more specifically?

Answer. I am willing to answer any question properly proposed as specifically as I can, and think I have done so above. If the object of these enquiries be to determine whether these matters or any of them were confided to me as the att'y of the company, and as secrets not to be divulged, the company never confided to me as their att'y any matters in confidence or secrecy, of which I have any recollection or belief, that they expected or desired me to keep as such.

Question No. 9. I am not asking you if you have testified to any matters which were confided to you as matters of secrecy or att'y for the Co., but of any matters in relation to the contract with Vallette, and the issuing of the bonds to him, of which you acquired the knowledge as their attorney, without having the seal of secrecy specially imposed upon you. Have you testified to any such fact mentioned in the latter clause?

Answer. I cannot say that I acquired the knowledge I have of the contract with Mr. Vallette, or the issue of the bonds to him, simply because I was the attorney of the company, over and above the part I had taken in behalf of the company as above stated. I was a large holder of the stock of the company, and except in the mere matters of litigation or the legal form of papers, I think I was more advised with in all the matters of the company, because I was deemed a friend to their interests, than simply because I was an attorney.

Question No. 10. Did you acquired any knowledge at all of the matters to which you have testified in regard to the negotiation with Vallette, the contract with Vallette, and the issuing of the bonds to Vallette, as the attorney of the Co.?

Answer. I cannot say that I did, nor do I think I did simply because of that fact; I think I would have had all the knowledge I have of those facts, had I not been the attorney of the company, connected as I have been with the enterprise, and was. I think it probable the company entrusted me with so much of the negotiation with Mr. Vallette as they did, because they had confidence

in my knowledge of the law, together with my past and present connection with the enterprise.

Wednesday morning, 9 o'clock A. M., 17 October, A. D. 1855.

Parties met pursuant to adjournment. Present, Henry Vallette, Pl'ff, and Abraham Conwell, president of the Canal Company, Messrs. McLean, Fay, the attorneys of the Co.

Question No. 11. Were you not during the whole of the negotiation with Vallette in the employ of the Co. as their attorney? and was not the whole matter submitted to you as their attorney?

Answer. I have answered that question in substance repeatedly before; I will, however, make this further statement as to my being the att'y of the company in that matter, and the business of the company generally. I deemed myself retained by the company as their attorney when they needed my services as such, and no further. I do not think the matter was submitted to me simply because I was the attorney of the company. I make this statement to be taken in connection with the other matters I have stated in this behalf.

Question No. 12. Have you made any distinction in your testimony in relation to the matters of which you have acquired a knowledge as attorney of the Co., and that which you acquired otherwise?

Answer. You can determine this matter as well as I. I can answer no further in this behalf.

Question No. 13. Was not the form of the bonds issued to Vallette by the Co. shown to you as already prepared? and did you make any alteration in the form of said bonds, and if so, in what particular? State if you have any knowledge upon the subject other than that acquired as attorney for the Co.

Answer. Mr. Vallette and myself consulted first generally in reference to the form of the bond; and my impression is, that together we drew out the skeleton of the form. After this, I think, he presented a form drawn out at length, which we examined together and made some verbal alterations; it was this form, to the best of my recollection, that contained the matter indicating a loan, as I have above stated, and on which I had the advice of the members of the Board. The manner of my obtaining my knowledge in this behalf, and the reason why, I have explained above as fully as I can.

Question No. 14. In your conversation with Mr. Vallette, just stated, were you not acting on the part of the Co., as their attorney?

Answer. I was acting for the company in this matter, but not simply because I was their attorney; the company did not confide the matter to me in the relation of attorney and client, as I understood it, but with the explanations previously given.

Question No. 15. Do you mean to say in answer to Question No. 13 that you made the alteration in the bond, in the statement of a loan, which was presented to you by Vallette?

Answer. Such was not my intention. I think it was drawn out as presented to me by Mr. Vallette, with the matter in it in reference

to a loan as it now stands. I remember that I was surprised at seeing it in that form, and so expressed myself at once to Vallette. It was then he explained why he desired that form, and desired it stricken out; but still I would not consent to that form until I had consulted the members of the Board, and finally had their assent thereto.

Adjourned by agreement till ½ past 1 o'clock P. M.

½ past 1, parties met pursuant to adjournment.

Question 16. Of your personal knowledge do you know what banks or individuals the Co. endeavored to obtain a loan from?

Answer. I made no application for loans myself for the company at the time I referred to. The applications I speak of were made by the Pres'd, Mr. Helm, or the most of them. I was not personally present or knowing to any of them, and only speak of it as a matter that I know was authorized and directed by the members of the Board, and report of failure subsequently made to them.

Question 17. State under what section or sections of the charter of the company in bonds in question were issued, and attach the sections to your answer to this question.

Answer. I have not examined the charter with reference to this or any other matter in particular that I now think of for some years, and cannot now refer from memory to the section or sections that the company deemed as authorizing what they done on that behalf. My recollection is, that at the time, and from that time forward, until the question was raised in this suit, it was never mooted by the company or myself, or any body else. In making this remark I have not particular reference to the present Board of Directors, but the Board who then had the matter in charge. So far as my agency in the matter was concerned, it never occurred to me but that the charter in its general, if not its specific provisions, gave the company power to execute their bonds for any indebtedness arising out of construction of the canal by them, and such bonds, if desired, as those issued to Mr. Vallette.

Question No. 18. If those bonds we not issued upon a loan to Mr. Vallette, of whom was the loan obtained for which they were issued?

Answer. I think I have fully answered and explained that matter above, but repeat that no loan was ever made by the company of Mr. Vallette, so far as I have any knowledge, information, and belief. Nor did the company in this matter make a loan of anybody. The bonds were issued in the form they have as evidence of indebtedness to their aggregate amount for work done by Mr. Vallette under his contract with the company, and the form was given them to enable him, as was supposed, to negotiate them to a better advantage.

Question No. 19. State if you know in any other way than as attorney for the Co., if the proposition of Vallette to complete certain portions of the canal for $125,000, in the bonds of the Co., was not

accepted, with the understanding that the amount would give Vallette 100 per cent., or thereabouts, on his investment on the actual amount paid out by him?

Answer. To answer this question fully I would have to state divers matters already in my deposition set forth, and to them I refer, stating further that the proposition referred to, which I have said was drawn by me, I did not understand to be drawn by me as the att'y for the company, any more than as the attorney of Vallette; in the whole matter of this contract I acted as the mutual friend and agent of the parties, and am sure Mr. Vallette and the company so regarded it at the time. The President had recommended me to Mr. Vallette as a proper person to consult with in reference to the affairs of the company, and the condition of the work, and I could not with propriety have acted for Mr. Vallette, as I did in this behalf, as well as the company, had I that I was in the matter the retained att'y of the company. I was not at that time receiving any salary from the company, in fact the larger portion of my services had been rendered as an ardent friend of their enterprise gratuitously, rather than as an attorney for fees. I am unable to state now if I ever knew precisely how much it was understood the prices argeed to be given Mr. Vallette for the work done by him, exceeded the amount of money he would have to pay out, or did pay out for the work; my impression, however, is, that the cash thus required to be paid out would not and did not much exceed one-half the nominal face of the bonds. But that cash did not, in the estimation of myself or the company, make near all the consideration the company deemed they were getting by securing that contract. In addition thereto among other things, was the services of Mr. Vallette devoted to the matter the most of his time for the most of two years, as I remember, the appreciation of the company's paper referred to; their renewed credit, and the speedy completion of the canal, and their making available the dead capital the company as well as the State had expended upon it. The results in this behalf anticipated from the contracts were fully realized by the company, and with the work done, in my estimation, and I believe that of every member and officer of the Board, and stockholders too, so far as I know, and no one had a better chance for knowing, these results far exceeded in value to the company the am't of the bonds, had they been worth their face.

(Defendant's counsel objects to all portions of this answer which are an irresponsive to the question. Jno. S. Reid, Judge.)

Question 20. Did the Board of Directors ever advertise in the usual way the work contracted to be done by Vallette?

Answer. I do not now remember.

Question 21. State if you know what was the business of Mr. Vallette, and where did he reside at the time this contract was entered into, and whether he, to your knowledge, had ever been a contractor for building or repairing canals previously. And if so, when and

where, and whether his business had not previously been, and was not at the time and since, a broker and money lender, and not a contractor.

Answer. Mr. Vallette was, personally, a perfect stranger to me up to the time he appeared in Connersville, with a view to his contract as I have stated. I understood that he was at the time, and had been from his boyhood, a citizen of Cincinnati, and that he was formerly of the firm of "Ellis & Vallette," brokers, in that city. I know nothing of his previous connection with public works, or of his business otherwise, except from his own statements to me and general report. Since the time Mr. Vallette completed his contract I do not think he, Vallette, has been regularly engaged much of his time in any particular business, unless it was to look after his investment in this canal. Wherever I have seen him since, that seemed to be his principal business.

Question No. 22. State whether the Board would have made the contract with Vallette had the Co. been in sufficient funds to make the work done by Vallette, and whether the contract was not made under the peculiar pressure upon the Co. for means to do the work. And whether Vallette, at the time the contract was entered into, was not fully apprised of the situation and necessities of the company.

Answer. I do not suppose the company would have sought after and contracted with Mr. Vallette to do the work he did had they been in possession of available funds to construct the work otherwise. The company was, as I have stated, about coming to a stand still for the want of funds, and I am pretty well satisfied that had it not been for this contract they must have closed up operations on the work, at least for a season or more, inasmuch as we all thought that in the condition of our affairs our only present hope was in securing this contract to be taken by Mr. Vallette. I think that Mr. Vallette was pretty well advised of the situation and necessities of the company, as I remember to have explained that matter to him myself, and know that he was not much inclined to take hold of the matter, and only done so upon the urgent solicitation of myself and every member of the Board with the one exception above stated, and that person was not re-elected a member of the Board.

Question No. 23. Was not the circulating medium referred to by you in your examination in chief wholly unauthorized and illegal?

Answer. If my opinion is desired in this matter I say I think not. I devised the whole matter and it had the full sanction of the Board. I am very sure that it was intended to be authorized by the charter, and we supposed it was. That, however, I suppose to be purely a matter of law, and others can judge for themselves, if it have anything to do with the case.

Question No. 26. Did Vallette take any other risks than that specified in his contract, and did not Vallette's sub-contractors take the same risks from him?

Answer. The whole matter of the contract was, as I understood it and believe, embodied in the contract above referred to. The company looked close to Mr. Vallette for the execution of the work and its delivery to them on completion in good order. I have not said Mr. Vallette had any sub-contractors, but I think he sub-let most, if not all, the work, but I never paid any attention to that matter, and know nothing of the character of the sub-contracts, except that I remember he had a few ugly customers on his hands, and trouble to get them to do the work as the company required of him. One of these cases grew out of the construction of his feeder dam.

Question 25. State whether Vallette did not take your affidavit to be read on an interlocutory motion in this cause, and whether he has not frequently advised and consulted with you about this case since the commencement of this cause.

Answer. Mr. Vallette took my affidavit some time last summer, I believe, to be read, as I understood it, for some purpose in this cause. He has frequently consulted with me in this behalf to learn what my recollection was in this behalf, when we accidentally met during this last spring and summer, and fall. But he never took my advice professionally in the case. He desired to retain me and have my active aid in the suit, but I uniformly declined being retained against the company, telling him I never had been engaged against the company in any matter of importance, and never desired to be, and in this matter my personal interests were directly opposed to him, as I was and now still am security for the company in seven thousand dollars for an old right of way, and as att'y and recently President of the Junction Railroad Company. I was charged by the company with the collection or securing, if possible, some $12,000 or $15,000 of indebtedness by the Canal Co. to the R. R. Co., and besides this I had, in my own name and right, judg'ts against the company for a considerable amount, and if he succeeded I saw but little hope for myself or clients in this behalf, and therefore I could not place myself in the position of an att'y in the matter. I further told him, however, that he could have all I knew about the merits of his case, as I knew the whole matter was transacted in the best of faith all round; and I would, therefore, connected with the matter as I had been, withhold nothing that I knew would be of service to him, whatever might be the consequences, personally, to myself. Mr. Vallette, on yesterday morning, applied to me to aid him as att'y in taking depositions on this occasion, when I declined again on the further ground that I then found he desired to take my own deposition, whereupon he expressed disappointment, as he said that Mr. Fox had told him, as I understood him, that there would be nothing improper in my first telling what I knew about the matter, and then aid him in the further examinations. I have frequently advised Mr. Vallette to compromise this case by giving the company further time to pay his debts, and that I tho't he ought to do so, as there were other meritorious claims against the company for repairs done on the

canal, on one or two occasions when all was deemed nearly lost. This I believe to be about all the advice I have given him in this behalf, and I do not remember that he sought any other of me when he learned my position.

(Defendant's counsel objects to every portion of the answer to the last question, which is irresponsive to the question. Jno. S. Reid, J.)

Re-examination.

State whether or not the bonds issued to Vallette of which you have spoken as the last batch, given for the first issue of bonds (surrendered to the comp'y by him), were issued by the Canal Company before or after the passage of the act of Jan'y, 1845, by the Legislature of the State of Indiana, approving of the contract with Vallette by the company, and authorizing the issue of such Bonds.

(Question and answer objected to by defendant's counsel, on the ground of its illegality, and not be in relation to any matter about which the defendants in ther cross-examination have examined the witness.)

Answer. The exact provisions of the act referred to I do not now remember, tho' I aver the act at the request of Mr. Vallette and with the approbation of the board, nor do I now remember the date of the passage of that act, but my strong impression is, that it was passed prior to the issue of the second batch of bonds in lieu of those surrendered, as I see that it appears by the Journal of the Board, that the substitution of that batch was authorized on the 3d of March, 1845.

Parties adjourned until to-morrow morning at 9 o'clock A. M. Jno. S. Reid, J.

9 o'clock Tuesday morning, parties met pursuant to adjournment.

Question by defendant's counsel. For what purpose or object was the act referred to in the last question of complainant and the answer thereto, passed at the instance of Mr. Vallette by the Legislature of Indiana?

Answer. My recollection now, as to that object, is not very distinct. It is some years since I noticed the act, and as I have said, its exact provisions I am not certain about, but my strong impression is, that the main, if not the only object was to save any question of usury that might be raised by persons disposed to buy the bonds, growing out of the fact that they were to carry 7 pr. ct. int. per annum, payable in New York, while 6 pr. ct. per annum was the legal rate of interest in this State, where the bonds were issued.

(The pl'ff objects to the last question of the deft's counsel, because the def't had closed his cross-examination, which he had made in the most full and searching manner, and because the pl'ff had after the cross-examination asked but one question which was necessary to explain the meaning, and was intimately connected with the testimony previously given by the witness. Jno. S. Reid, J.)

The foregoing deposition, after having been read over by me in the

presence of the parties and corrected, verbally in a few instances, is signed by me,

S. W. PARKER.

Exhibits referred to in foregoing deposition of Samuel W. Parker.

"*Exhibit A.*"

Copy A.

Mr. Vallette agrees to supply the materials, and complete at his own expense Sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, feeder 127, 130, 132, of the White Water Valley Canal, agreeably in all things to the plans and specifications exhibited to him by Mr. Moore, the Chief Engineer of the Company, within one year from the 1st day of September next, weather permitting, for 125 of the bonds of the company, each $1000, upon ten years' time, drawing an interest of seven per cent., payable semi-annually; and he agrees to pay the company a bonus of $500 in their own paper, and in case any charge is made by the engineer that may diminish or increase the amount of the work, the matter shall be adjusted by reference, if it cannot be amicably done to the chief engineer of the company, the details of the agreement to be formally drawn out, and executed by the parties.

Signed, HENRY VALLETTE.

July 2d, 1844.

A.

The original of this paper is in Parker's handwriting.

Exhibit "B," referred to in Parker's Deposition.

Tuesday morning, *July 2d*, 1844, 8 o'clock.

The company met pursuant to adjournment, present, same as at adjournment—when the following business was transacted, viz:—

Henry Vallette presents his proposition in writing (marked A), for the completion of sundry sections of the canal for the sum of ($125,000), one hundred and twenty-five thousand dollars in the (7) seven per cent. bonds of the company, which proposition, after mature deliberation, and all things touching the same being duly considered, is by the company accepted, and the attorney of the company is directed to draw out an article of agreement in accordance with the spirit of the proposition for the immediate execution of the parties, which proposition upon a call of ayes and noes, is adopted by the following vote:—

Ayes—Messrs. Claypool, Crum, Hankins, Jackson, Murphy, Reave, Sinks, and Helm.

Noes—Mr. Mount.

And now comes the attorney of the company, and presents to the

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company duplicate copies of the contract with Henry Vallette, for the construction of Sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 130, 132, and also the Green's Fork feeder and a dam, and a road bridge on Section No. 114.

And the said Vallette comes also, and the contract being read and fully considered, and it appearing that the details of the contract as drawn out are in accordance with the spirit of the proposition as originally presented and accepted, the contract is by the company approved, and directed to be duly executed, which is done.

Attest, W. E. LAURENCE,
Sec'y.

[SEAL.] B.

For Exhibit "O" (the contract of H. Vallette with the W. W. V. Canal Company), attached to the deposition of S. W. Parker, see pages and inclusive of this record.

H. BASSETT,
Clerk.

"*Exhibit B B.*"

OFFICE WHITEWATER VALLEY CANAL CO.,
CONNERSVILLE, 2*d July*, 1844.

Ordered that the president, together with Sam'l W. Parker, the attorney of the company, be and they are hereby appointed to prepare the form of the bonds to be issued to Henry Vallette, adjusting that matter according to the contract in this behalf, and in such a way as they may deem most satisfactory, and as will be best calculated to secure the prompt payment of the interest as it becomes due.

8*th October*, 1844.

The President and Sam. W. Parker, attorney of the company, heretofore appointed to prepare the form of the bonds to be issued to Henry Vallette, now report the following form for said bonds, to wit (for form see blank bond enclosed, marked A).

And it appearing that said form is satisfactory to said Vallette, the same is approved by the company—and in said form, said bonds are ordered to be issued to the said Vallette with the proper dividend warrants to be thereto attached.

And it is further ordered, that the president and secretary procure a sufficient number of said bonds to be issued, and that they fill up, execute, and deliver the same to the said Vallette from time to time as they may become due him, agreeably to his contract with the company, taking his receipt therefor.

3*d March*, 1845.

Ordered, that in case Henry Vallette deliver up to the company to be cancelled, the bonds heretofore issued to him, that other bonds

in lieu thereof be issued to him, dated on, and drawing interest from the first day of February, 1845, and all bonds hereafter to be issued to him in this behalf, shall in like manner be dated on, and made to draw interest from the same date.

I hereby certify that the foregoing orders are correctly copied from the records of this company.

Witness my hand and the seal of said company, this 23d day of October, 1848.

[SEAL.] DAVID MOORE,
Sec'y.

Exhibit B, B.

I hereby certify that the foregoing orders are correctly copied from the records of the company.

Attest, W. E. LAURENCE,
Sec'y.

Connersville, Oct, 16th, 1855.

STATE OF INDIANA,
Fayette County, ss.

To the Judges of the Seventh Circuit Court of the United States in and for the District of Indiana.

I, John S. Reid, sole Judge of the Court of Common Pleas in and for the District composed of the counties of Franklin, Fayette and Union, in the State of Indiana, do hereby certify that on the 16th day of October, A. D. 1855, the annexed and foregoing deposition of Samuel W. Parker was commenced to be taken before me at the office of said Parker, in the town of Connersville, Fayette county, Indiana, between the hours of 8 o'clock A. M. and 5 o'clock P. M., and continued from day to day as stated therein until closed.

I further certify that said deposition was written down, subscribed and sworn to before me, and in my presence, and in the presence of *of* Henry Vallette, the compl't, and Abraham B. Conwell, President of the White Water Valley Canal Company, and N. McLean and James H. Fay, def't's att'y, to be used in evidence on the behalf of the complainant on the hearing of the cause mentioned in the caption of said notice.

I further certify that the said Samuel W. Parker, as such witness, was by me carefully examined and cautioned, and sworn according to law to testify the whole truth in relation to the matters in controversy between the parties named in the caption before testifying.

I further certify that the said deposition was reduced to writing in my presence, the questions partly by myself and by M. McLean, and the answers all by Mr. Parker, which was done by mutual consent, and in the presence of the said parties, under my direction.

I further certify that I am not counsel or attorney of either of the

parties to the suit, and am not interested in the result of the cause, all of which is hereby certified.

Witness my hand and seal, this 19th day of October, A. D. 1855.

JNO. S. REID. [SEAL.]
Judge, C. C. P. F. C. Ind.

Judge's fee for taking deps. $10.00.
Clerk fee for seal, 50 cts.
Paid by comp't, $10.50.

STATE OF INDIANA,
Fayette County, ss.

I, Amos R. Edwards, Clerk of the Circuit Court of said county, and *ex officio* Clerk of the Court of Common Pleas of said county, hereby certified that John S. Reid, before whom the depositions (to which this certificate is attached) were taken, was, at the date of the taking and certifying the same, Judge of the Court of Common Pleas of this county, duly commissioned and qualified, and that full faith and credit are due and ought to be given to all his official acts as such, and that his signature above is genuine.

In testimony whereof I have hereunto set my hand and the seal of said Court at Connersville, this 19th day of October, A. D. 1855.

[SEAL.] AMOS R. EDWARDS,
Clerk.

Charles Goodman, of the city of Cincinnati, in the State of Ohio, of lawful age, being first duly sworn by me, as hereinafter certified, deposes as follows:

Goodman's Deposition.

Question by complainant's attorney. Please state what has been your business, and where have you followed it for the last fifteen years, and whether you have been acquainted with the value of bonds and stocks in Cincinnati and in the West and East generally.

I have been engaged in the banking business, in the city of Cincinnati, for the past twenty years; have purchased and sold on commission large amounts of bonds and stocks, and have a general knowledge of the value of such securities, both in Cincinnati and New York.

2d. Please, if you was acquainted with the fact of the complainant contracting to build a portion of the White Valley Canal and to receive pay in the bonds of the Company, payable in ten years, with seven per cent. interest, state what was the market value of those bonds during the years 1845, 1846, and until the great freshet in the White Water river in 1847, what could they have been sold for in cash during that period.

I was acquainted with the fact of the complainant making the

contract, payable in the bonds of the Company, bearing 7 per cent. int. The bonds would have sold in market at from seventy to seventy-five cents, highest point; with their depreciation by the flood, I do not believe they could be sold for more than 25 cents on the dollar. I know of the existence of the contract from Mr. Vallette and general hearsay. (The last question objected to by defendant's counsel.)

3d. Please state what you know of the White Water Valley Canal being injured by floods at various times since 1846, and how often and to what extent, and what effect did those floods have on the value of the White Water Valley bonds given to Vallette as above. If they lessened their value as a marketable commodity, state to what extent, and state what price you think those bonds could have been sold for in the market East or West since the flood of 1847.

I do not know anything particular in regard to the floods upon the White Water Valley Canal Co., only the fact that there were several heavy floods or freshets which done great damage to the canal, and which affected the value of the said securities. I do not believe any amount of their could have been sold at any price for *cash*—a few of them could probably have been retailed at from 25 to 30 cents on the dollar. CHARLES GOODMAN.

Defendant's counsel objects to the taking of this deposition, and expressly reserves all right to make such objections as the facts and the law may permit, excepting so far as they have expressly waived objections.

Also, Rowland Ellis, of the City of Cincinnati, Ohio, of lawful age, being first duly sworn, as herein certified, deposes as follows:—

Ellis' Dep.

Please state whether you have at any time, and when and where, been and for how long as a partner with Henry Vallette; if yea, state the character of the business you done.

Answer. I have been a partner with Henry Vallette from about 1840 to 1844 in the City of Cincinnati. The business in which we were engaged was the general banking business. The firm name was Ellis & Vallette. Mr. Vallette was a partner until 1844, and the firm name continued after that period and until 1846, but Mr. Vallette had no interest in the concern from 1844.

By same. Whether you was acquainted with Mr. Helm, President of the White Water Valley Canal Company, calling at the office of Ellis & Vallette, in the summer of 1844, and inviting him to go to Connersville to meet the Board of said company, and for what purpose he wanted Vallette to meet the Board? State the substance of the conversation as near as you can recollect.

Answer. I remember Mr. Helm called at our office, and having a conversation with Mr. Vallette. I do not recollect hearing the conversation between Vallette and Helm. The conversation took place in the back room, and I was in the front room. I have no recollec-

tion of hearing the object of Helm's visit, except from what Mr. Vallette told me.

By same. State whether you was made acquainted with the fact of Henry Vallette having made a contract with the White Water Valley Canal Company to finish a portion of its canal for the bonds of the company, payable in ten years with seven per cent. interest, in July, 1844; if yea, state what was the market value of said bonds at the time they were rec'd in 1845 and in 1846, in cash.

State what they would have sold for after the freshet in White Water River, which injured said canal in 1847, and from that time up to and at the present time.

Answer. I was made acquainted with the fact that he had made such a contract as is inquired of by the question—he was to receive the bonds of the company bearing interest, payable ten years after date, interest seven per cent. The bonds were worth seventy or seventy-five cents in the year 1845 and 1846. After the freshet in the White Water River, the bonds would have been worth very little, they might possibly have sold for fifty cents—the effect of the freshet prejudiced the sale of the bonds, and the liability of an annual occurrence of the freshet had a tendency to give it a taint. At the present time, the bonds might bring twenty-five or thirty-three and one-third cents on the dollar, but it would be a pretty wild calculation to say what they are worth.

Cross-examination.

Question by counsel for defendants. How did you become acquainted with the fact that Vallette had made a contract with the company, and do you know this from your knowledge or from the information of others?

Answer. I learned this from Mr. Vallette and others, principally Vallette.

2. From what other person besides Vallette did you get your information?

Answer. From Mr. Moore, the engineer of the company, and Richard Tyner, of Brookville, Indiana.

3. Did Ellis & Vallette ever have any correspondence with parties in New York, in regard to any bonds of the White Water Valley Canal Co.?

Answer. Ellis & Vallette never had any correspondence on the subject. Mr. Vallette may have had, as it was his private business.

4. With what parties did Henry Vallette correspond upon this subject in New York?

Answer. I do not know. I have no knowledge of them; but they were holders of large amounts of LaFayette Bank stock.

5. Did Ellis & Vallette, or Henry Vallette, ever receive any communication from parties in New York upon the subject of bonds of the White Water Valley Canal Co. prior to the intervention you have mentioned with Mr. Helm in the office of Ellis & Vallette?

Answer. I have no knowledge of anything of the kind. Ellis & Vallette never did.

6. Question by same. Do you know how much money was advanced by Mr. Vallette to the White Water Valley Canal Co., and how many bonds he received from said company?

Answer. The amount of money advanced was between fifty-five and sixty thousand dollars—at least that amount of money was drawn out of the firm by Mr. Vallette during the completion of his contract; he may have appropriated some to other purposes, for aught I know. I do not know the amount of bonds he received of the company.

Quest. by complainant. You was asked by defendant how much money Mr. Vallette advanced to the company. Did he advance any to the company to your knowledge, or by advance do you mean the amounts he paid out for work?

Answer. The amounts were drawn out by Mr. Vallette in sums of from five to ten thousand dollars, and were paid out for work. So I was informed by Mr. Moore. Mr. Moore would come into the office and say, "Mr. Vallette, I want so much money to-day—the estimate is so much." Mr. Vallette would draw the money, and they would go out of the office together. Mr. Moore might have come into the office once or twice in this way, and Mr. Vallette drew money five or ten times. This is the source of my information as to the appropriation of the money.

(Defendant's counsel object to the above answer of the witness, which appears to be obtained from Vallette & Moore.)

By same. In what way was it made known to you or Mr. Vallette how much money would be wanted as estimate days; if by letter, say from whom?

Answer. When Mr. Vallette was not there, by letter from Mr. Moore to Mr. Vallette. (Defendant's counsel objects to the above answer of the witness.)

By same. Please state whether you or the firm of Ellis & Vallette had any interest in the contract for finishing the canal. State what effect the drawing of so much money out of the firm of Ellis & Vallette, by Mr. Vallette, had upon the continuance or dissolution of the firm of Ellis & Vallette?

Answer. Ellis and Vallette, or R. Ellis, never had any interest whatever in the contract. The withdrawal of so much money from the firm, by Mr. Vallette, obliged him to withdraw from the firm. By agreement Vallette's name was to continue in the firm one year after 1844, but was continued to October, 1846.

By same. Do you know of Mr. Vallette ever advancing any money to the White Water Valley Canal Company as a loan, or of his applying any money for any purpose except for paying for labor and materials on the estimates?

Answer. (Question objected to by counsel for defendant, as not rebutting.) I do not know of any loan being made by Mr. Vallette to the company, and never heard the word "loan" used in connection

with these payments by Mr. Vallette for work done on the canal. I do not know of his applying money for any other purpose than for work on the canal.

ROWLAND ELLIS.

Defendant's counsel objects to the taking of this deposition, and expressly reserves all right to make such objections as the facts and the law may permit, except so far as the same expressly waived objection.

Depositions of Daniel Hankins, of the county of Fayette, and State of Indiana, taken before me, on the fifth day of November, A. D. 1855, and continued from day to day, as noted in the adjournments herein, between the hours of eight o'clock A. M., and six o'clock P. M. of said day and the days succeeding, as noted, pursuant to the enclosed attached notice, to be read in evidence in a cause pending before the Circuit Court of the United States for the District of Indiana, in Chancery sitting, wherein Henry Vallette is plaintiff, and the White Water Valley Canal Company is defendant, on behalf of the plaintiff, as follows:—

The said Daniel Hankins, of lawful age, being by me, Sam. Heron, a Notary Public in and for said county and State, duly commissioned and qualified, duly sworn to testify the truth, the whole truth, and nothing but the truth, as a witness in the above entitled cause, deposes and says as follows, to wit, in answer to the following question:

Question 1st. State if you were an officer of the White Water Valley Canal Company; if so, when, and what office did you hold?

Answer 1st. I was one of the persons who were named in the original charter as incorporators to organize the company.

2d. State if ever you were a Director of said Canal Company, and if so, when were you such Director?

Ans. To the best of my recollection I was elected a Director of said Canal Company, in February, 1844. I continued in office but a short time, having resigned my said office in August or September following, and was re-elected at the next election in January following, 1845.

3d. State if you were a Director, when a contract was made between the White Water Valley Canal Company and Henry Vallette, and what was the object of that contract, when it was made, and how the work done by Vallette, if any was done, was paid for by the White Water Valley Canal Company. (Def't's counsel objects to question.)

Ans. I was a Director when a contract was made, as asked, between the said company and Henry Vallette; the object of that contract was to make the unfinished part of the said canal from Connersville to Cambridge City; said contract was made in July, 1844. The work done by Vallette on the canal was done by sub-contractors. Mr. Vallette had a letting of the work, and the work was done and finished by his own contractors. I mean that it was done by sub-contractors

under him. The work done by Vallette was paid for by the Canal Company, as the work progressed, every sixty days, in the bonds of the company, for the amount of the work, less ten per cent. retained. I wish to be understood that it was so paid for as far as I know; that being the contract, as I was on the Board only a short time, I cannot positively state from my own knowledge that he was so paid.

4th. State what was the object of the Canal Company in requiring the 10 per cent. to be retained from the estimates of Vallette as the work progressed, as is mentioned in the contract. State, as far as you believe or can from what you know, of the usual practice of the Company with their contractors, as to the object of the Company in retaining said 10 per cent.

(Defendant's counsel objects to the question.)

Ans. The object of the Company in retaining the 10 per cent. from the estimates of Vallette, was, that if he failed to do the work properly, the ten per cent. would be altogether retained by the Company; or in other words, it was a means to compel Mr. Vallette to comply with his contract. It was the usual practice of the Company to retain 10 per cent. from the estimates of the contractors, in order to insure a compliance with their contracts.

5th. State under whose direction and superintendence as engineer of said Company, Vallette performed said work. State who paid said engineer. State whether or not the Company accepted said work. State who took the risks of performing said work by Vallette's sub-contractors. State what objections you have heard in the past ten years against the character or goodness of the work performed by said Vallette for said Canal Company.

(Defendant's counsel objects to question.)

Ans. Vallette performed said work under Henry C. Moore, who was engineer of the Company, and who, as such engineer, was paid by the Company. The Company accepted said work from Mr. Vallette. Mr. Vallette took the risks of performing said work from the Company. I do not remember to have ever heard any objections to that part of the work performed by Vallette. It was done to the entire satisfaction of the engineer and the Company at the time.

6th. State what part of the Canal was unfinished and in process of construction by the Canal Company when they made the contract with Vallette.

Ans. It (the canal) was unfinished from Laurel to Cambridge City, a distance of about twenty-five miles. About twelve miles of that distance was under contract at the time referred to (when the contract with Vallette was made) from Laurel to Connersville, by contractors with the Company. The Company had charge of a small portion of it directly, and not under contract.

7th. State what you know of the Canal Company having largely anticipated their available means to go on with their work at the time they made the contract with Vallette.

State what was the market value in cash of the issues of the Com-

pany at that time. State what you know about their having made application to banks for loans about that time. What agency you had in making those applications, and what security was demanded by such banks on such loans.

(Defendant's counsel objects to question.)

Ans. At the time the said Company made the contract with Vallette, they had no available means except the scrip issued by them, or at least but very little, their lands and real estate having been mostly sold. The capital stock was subscribed for payable in annual payments of ten (10) per cent. per annum, and a great part having been paid in real estate, was sold as aforesaid. Their issues at that time was worth about from (50) fifty to sixty (60) cents to the dollar cash. About that time the Company either asked or appointed me to go to Cincinnati, and make such applications to banks for loans. I went to Cincinnati, and made such application to the Franklin and Lafayette Banks for a loan as aforesaid, but failed to get a loan. I also applied to several friends. I could not get a loan at all on the credit of the Company, though I could have obtained a loan by mortgaging my own real estate, and that of the other directors, which security was asked of me.

No. 8. State whether or not the ten (10) per cent. annual instalments for stock subscriptions to the company had been anticipated by the company when the contract was made with Vallette; if yea, state to what extent. (Deft's counsel objects to question.)

Ans. The most of such ten per cent. instalments had been anticipated at that time, and most of the lands sold.

No. 9. State what you know of the contract between Vallette and the Canal Company being made in good faith or otherwise, and whether or not both parties acted with a knowledge of the condition of the company at that time. State what you know of any deception or unfairness practised by Vallette to obtain said contract. (Def't's counsel objects to question.)

Ans. I know that at the time the contract was made with Vallette by the company that it was made in good faith by all the contracting parties. I presume that both parties acted with a knowledge of the condition of the company at that time. I was familiar with all the members of the Board at that time, and if there had been any unfairness or deception on the part of Vallette or any one else, I think I would have heard of it. But I did not then hear anything about any unfairness, and from that day to this I never heard such a thing mentioned until the bringing of this suit.

No. 10. State in what particulars the contract with Vallette differed from his original proposition to the company, and at whose suggestion changes were made from the original proposition, and what such changes were? (Def't's counsel objects to question.)

Ans. Mr. Vallette's first proposition was to take the unfinished part of the canal from Connersville to Cambridge, and complete *and complete* it for $125,000 00, or about that sum. When that propo-

sition came in before the Board, I suggested to the Board that we get Mr. Vallette to make a bid for the work by the yard and foot, under the direction of our engineer, and that plan as stipulated in the contract was then adopted by the Board of Directors.

No. 11. State what you know of estimates being shown to Vallette of the probable cost of the work to be done by him. State how many estimates were shown to Vallette, by whose direction they were shown to him, and the prices, as near as you can, paid to Vallette for his work. State what relation these prices bore to those previously given on that part of the canal constructed by the State?

Ans. I do not now recollect of any estimates having been shown Mr. Vallette by the company, but they were, as I understood, shown to him by Mr. Moore, the engineer of the co'y. I cannot say how many estimates were shown to Mr. Vallette, nor can I say by whose directions they were shown. The prices paid Mr. Vallette were the same as is set forth in the contract. I believe that the prices paid Mr. Vallette on his contract were based upon the prices paid by the State for similar work when the canal was let by the State from Brookville to Lawrenceburg on the Ohio River; the prices may vary a little from those paid Vallette, but they never made the BASIS of the contract as talked of by the Board at the time.

No. 13. State what you know about any device or mismanagement between Vallette and said Canal Company, when making said contract, to evade the usury laws of the State of Indiana or to cover up a loan of money indirectly. (Def't's counsel object to question.)

Ans. I think my opportunities were as good as may one else to have known or heard of this fact, had there been any such device or management, but I never heard of or knew of any device or management on the part of Mr. Vallette or the Board of Directors, or any one else, to do anything but to do right.

No. 14. State whether or not said contract was advantageous to said Canal Company; if yea, state the effect it had upon the company's stock and its issues of paper. State what you know of its being approved of by the stockholders at the time it was made, as well as the community. (Def't's counsel objects to question.)

Ans. I believe said contract was advantageous to the Canal Company at the time it was made, and that the Board of Directors, with one exception, so considered it. It had the effect to enhance the value of the certificates of stock or scrip which the company had then issued from about 50 or 60 cents to about 90 cents on the dollar, and from the time of the letting to Vallette to the time the canal was finished it remained at about that price in the trade of the country. I have no doubt that the company's stock was enhanced in value and sold freer after the letting than it did before. So far as my knowledge extended said contract, at the time it was made, was favorably received by the Stockholders and by the community generally, even at a distance.

No. 15. State what effect the completion of the canal by Vallette

had on the value of produce and lands along the line of country through which the canal run. (Deft's counsel objects to question.)

Ans. By the completion of the canal by Vallette and the company a favorable effect was produced upon the price of produce along the country where the canal run. Previous to the finishing of the canal we had to wagon all surplus produce to the Ohio River, and the completion of the canal furnished great facilities to get to market. The lands along the line as well as some distance from the canal were, no doubt, enhanced in value by the completion of the canal.

No. 16. State what you know about the Directors of the Canal Company being re-elected by the Stockholders, and state how often they were re-elected after making the contract with Vallette. State who of them was left out and the reasons therefor. State who made opposition to such re-election. State whether or not A. B. Conwell, the present President of the White Water Valley Canal Company, resisted such re-election of Directors. State whether or not said Conwell was a candidate for Director after the contract was made with Vallette, or at the first election of Directors after such contract was made, and whether or not he was elected at such election. (Deft's counsel objects to question.)

Ans. The Board of Directors who made such contract with Vallette after the making of such contract were all re-elected but one, Judge Mount, who was a candidate and beaten, though a very excellent man. He having opposed the letting to Mr. Vallette in the July previous as I now believe, and I cannot say how often they were re-elected after that, but some of them were re-elected even after the flood washed the work away. As far as my memory serves me, at the first or second election after that contract, Mr. Fryberger, Mr. A. B. Conwell, Judge Mount, and Mr. Rariden and others, resisted the re-election of the old Board. But I refer to the records of the Board for the particulars as the facts are, no doubt, truly set forth in them. At one of such elections Mr. A. B. Conwell was, I believe a candidate for Director, and he was defeated at that time. There was a pretty strong effort made to beat the old Board at one of those times.

No. 17. State what do you know about estimates being made to Vallette from time to time as the work progressed. State who made those estimates and how they were paid.

Ans. I do not think I was a Director at the time the first estimates were made. After I was re-elected a Director estimates were made by the Engineer of the Company to Vallette. They were made every sixty days and paid in the bonds of the company, deducting ten per cent. from the amount of the estimates.

No. 18. State what you know about bonds being surrendered to the company by Vallette, and other bonds issued to him in lieu of them. State as near as you can when the last issue of bonds was made.

Ans. The bonds that were issued every sixty days on the estimates

of the engineer were surrendered by him some time before or about the time of the completion of the canal, and new bonds were issued in lieu of them to Vallette, all bearing the same date. I resigned a second time in 1846, but I believe the new bonds were issued before I resigned such second time. I here make reference to the minutes of the Board which will probably show the fact.

No. 19. State the date of the bonds last issued to Vallette, the amount of each bond issued to him, and the aggregate amount of the bonds issued to him for all the work done by him on contract with the company? (Deft's counsel objects to the question.)

Ans. The bonds issued in lieu of the bonds first issued on the estimates, were dated the 1st day of February (1845), eighteen hundred and forty-five. The amount of each bond so dated, was one thousand dollars ($1000 00) each, and I do not recollect the aggregate amount of the bonds, but I think the amount was upwards of one hundred thousand dollars.

No. 20. State how long you have been acquainted with S. W. Parker; how long you, yourself, S. W. Parker, and Meredith Helm have resided in Connersville? (Deft's counsel objects to question.)

Ans. I have been acquainted with Mr. Parker ever since he came to this place, which must have been over 20 years ago. Mr. Helm was living here when I moved here, and I come here in the year 1827.

No. 21. State whether or not you were in Connersville when Vallette came there the first time to make a contract with the White Water Valley Canal Company? (Deft's counsel objects to the question.)

Ans. The first time I ever recollect to have seen Mr. Vallette, was when he first came up to Connersville to make a contract with the White Water Valley Canal Company. I was in Connersville at the time.

No. 22. State how long Vallette was in Connersville before the meeting of the board at the time the contract was made?

Ans. He was in Connersville a week or two before such meeting, probably two weeks.

No. 23. State what was doing in Connersville about the contract with Vallette before the meeting of the board; state what part S. W. Parker, M. Helm, President of the said Canal Company, and the engineer were taking with Vallette in regard to the contract. Did, or did they not take an active part in making him acquainted with the affairs of the canal company at that time? (Deft's counsel objects to the question.)

Ans. Vallette was here some time before the meeting of the board. I saw Mr. Parker, and Mr. Helm with Mr. Vallette frequently during that time, and I know that Mr. Parker was very solicitous, as was also Mr. Helm to get a contract with Mr. Vallette.

No. 24. State what part Mr. Parker took in negotiating the contract with Mr. Vallette, and the canal company. Did he act as the

attorney of the canal company, or was he the mutual friend of Vallette and the canal company in that negotiation? (Deft's counsel objects to the question.)

Ans. He took an active part in getting up this contract, as well as all other contracts in which the company was interested in, for the benefit of the company. I never considered that Mr. Parker was the attorney of the company in making the contract with Vallette. I never considered that Mr. Parker was the attorney of the company in making the contract with Vallette. I always considered that he was in that negotiation the mutual friend of the canal company, and Mr. Vallette, and do so yet.

No. 25. State whether or not Mr. Parker was *was* more active in that contract with Vallette than in making general contracts for the company with contractors. State what you know about his giving much of his time, and how much of his time in bringing about that contract, previous to the meeting of the board when that contract was made. (Deft's counsel objects to the question.)

Ans. Whether he was more active in getting up that contract than others, I cannot say, as he was always active in getting up all contracts, but I saw him frequently with Mr. Vallette during that time. I cannot say how much of his time Mr. Parker gave in getting up that contract.

No. 26. State whether or not the White Water Valley Canal company are owing you large sums of money at this time? if yea, state how much that indebtedness to you is, and in what shape it is in at this time? State what would be the effect on you as a creditor of said canal company *company*, if such is the case at this time, should Vallette fail in this suit? (Deft's counsel objects to the question.)

Ans. The Canal Company aforesaid is owing me at this time. It is in the shape of judgment and other debts. The amount of their indebtedness to me in that shape of judgments is about $860, and about $465 00 with others, and in addition I have some bonds and dividend warrants against the company, but don't recollect the amount. My judgment and other dues would be better if Vallette should fail in this suit. I suppose I would then be more likely to get my money. The answer relative the judgments is made from a statement handed me by Clerk of this County.

No. 27. State, if Mr. Vallette fails in this suit, whether you would regard your chances of collecting your judgments against the Canal Company improved or damaged. (Def't's counsel objects to the question.)

Ans. If Mr. Vallette fails in this suit, I would have a better chance to collect my money on such judgments.

"The examination in chief here closed."

Cross-examined by Def't's Counsel.

The respondent by counsel protests against the taking of this deposition, and in cross-examining said witness waives no right to

object to the taking of the same at this time, to the authority of the officer to take the said deposition, and to make all other objections whatever to the use of said deposition on the submission or trial of this cause, warranted by the facts and the law.

Question 1st. How long is it since you ceased to have any connection with the company as director or otherwise.

Answer 1st. As well as my memory now serves me, I resigned a second and last time in February, 1846, as I believe the minutes of the proceedings of the Board will show, and would refer to such minutes for the truth of it. I have had very little to do with the business of the company since that time. I ceased to be a director at the above time.

No. 2. Did the Board of Directors authorize Messrs. George Graham and Griffin Taylor, of Cincinnati, to make a loan for the use of the company? And did they prepare bonds therefor, in the sum of one thousand dollars each, bearing six per cent. interest, payable in advance in New York, the principal being payable in 10 years? (Question objected to by comp't's counsel because it is irrelevant and illegal.)

Ans. I don't know that the Board of Directors did so authorize Messrs. Graham & Taylor; but, if they did, it was done when, as I believe, I was not a director; and if they did so prepare bonds as asked, I do not know it, or have now no recollection of it.

No. 3. Did Messrs. Graham & Taylor visit New York with a view to effect said loan; and what offers did they receive therein for said bonds? (Question objected to by comp't's counsel because it is irrelevant and illegal.)

Ans. I have no recollection now of Messrs. Graham & Taylor having visited New York for such purpose; nor do I know of their having received any offers for such bonds.

No. 4. Did the Board of Directors authorize you to make a loan for the use of the company, and did you make application to different individuals therefor in the City of Philadelphia and elsewhere? (Question objected to by compl't's counsel because it is irrelevant and illegal.)

Ans. The company, as I before stated, either appointed me or requested me to make a loan for the use of the company in Cincinnati; and I did apply to individuals and to banks in Cincinnati, but was unable to effect a loan for the company. I am not now certain whether or not I applied for a loan in Philadelphia. It may be that I did, being anxious to make a loan.

No. 5. State if you did not apply to individuals in Philadelphia for a loan, and did not communicate your views therein subsequently to the company in writing? (Objected to by comp't's counsel because it irrelevant, a repetition, and illegal.)

Ans. I have no recollection now that I did; but I may have applied in Philadelphia for a loan, being anxious to make a loan for

the company. I may have applied in Philadelphia as well as in other places ; but, if I did there apply, I did not get any.

No. 6. In relation to your application for a loan in Philadelphia, did you not report to the Company against the making of any loan whatever ?

(Question objected to by comp't's counsel, because it is irrelevant and illegal.)

Ans. I would not say that I did or did not, for as I have stated before, I do not now remember to have made any application for a loan in Philadelphia for the Company, though I may have done it ; I may have reported to the Company that it would be injudicious to make a loan at that time in Philadelphia, though I have now no recollection of it. I was frequently in Philadelphia on my own private business, and may have suggested to some of my friends there the subject of a loan to the Company, but have no recollection of it now.

No. 7. To what individuals did you apply for a loan in Cincinnati at the time referred to by you in your examination in chief ?

(Question objected to by comp't's counsel, because it is irrelevant and illegal.)

Ans. At the time referred to, I applied for a loan for the Company in Cincinnati, to William Thoms, Springer & Whiteman, John Kilgore, Griffin Taylor, David Griffin, and perhaps—

No. 8. Did you apply to Griffin Taylor as an individual, or as president of a bank; and if as president of a bank, what bank or banks? (Question objected to by comp't's counsel for irrelevancy and illegality.)

Ans. I applied to Griffin Taylor first as President of (I believe) the Lafayette Bank, and afterwards as an individual.

No. 9. State when this was, what success you met with, and what report you made to the Company. (Question objected to by compl't's counsel for irrelevancy and illegality.)

Ans. I think I applied more than once. I know I applied once in the spring of 1844, previous to the letting to Vallette. I met with no success on the part of the Company, but could have got a loan of a small amount by mortgaging my own property and that of the other directors. I do not recollect what report I made of the facts to the Company.

No. 10. Did you communicate to the Company in writing or otherwise, that no loan could be procured except on the responsibility of the Directors, secured by a mortgage on their real estate. (Objected to by compl't's counsel for irrelevancy and illegality.)

Ans. I think I did communicate to the Board that I could not obtain a loan for the Company without pledging my own property and theirs, as before stated.

No. 11. Was the credit of the Company very much depressed in June, 1844, and were the Directors anxious to procure a loan, and were application therefor made to different individuals ?

Ans. I think the credit of the Company was getting very low at the time referred to in the question; the Directors then were anxious to procure a loan; I believe applications were made to different individuals to procure such loan. I understood Mr. James Rariden was sent to New York for that purpose; but I believe they were unable to effect any loan of any consequence, though they may have obtained some small sums.

No. 12. How much money did the Directors desire to loan in June, 1844, and to what purpose did they wish to put the said loan? (Question objected to by compl't's counsel, because it is irrelevant, illegal, and ungrammatical.)

Ans. I don't recollect the precise amount they wanted, but they wanted enough to finish the canal, if they could have gotten it. My opinion is, that if any sum could have been borrowed by the Board, insufficient to have completed the canal, it would have been expended in the completion of the work from Connersville to Laurel, and in redeeming the scrip issued by them, there in the hands of contractors, and laborers, and others.

No. 13. To what individuals were applications made for a loan in June, 1844? (Objected to be compl't's counsel, because it is irrelevant, a repetion, and illegal.)

Ans. I can only state, as I have before stated, that the applications to individuals for a loan was made some time in the spring or summer previous to the letting to Vallette. I don't recollect that the applications were made in the month of June, though they may have been. I know of no applications made for a loan to individuals further than I have already stated.

Ques. 14. State what was the business of Vallette, and where was his residence in July, 1844, and whether he had ever been a contractor for building or repairing canals, or making other public improvements, and if so, where and when; and whether his business had not previously been, and was not at the time, and since, has been a broker and money lender or dealer. (Objected to by Pltff's counsel as irrelevant and illegal.)

Ans. I had no personal knowledge of Mr. Vallette until I saw him in Connersville, a short time previous to his making his contract with the Canal Company. I understood he resided in Cincinnati in July, 1844, and that he was one of the firm of Ellis & Vallette in that city, who kept an office of discount and deposit. I don't know of his ever having been employed on any public improvements prior to that time. I think that Ellis & Vallette may have done brokerage business at that time in connection with their banking house. My impression is that he drew out of the firm shortly after that, and I do not think that he has been engaged in a brokerage business since, at least that is what I have understood, and that his business with the bank and brokerage was connected with Mr. Ellis as I understood. I believe Mr. Vallette has been engaged in merchandising since to some extent in a dry-goods store, and in manufacturing tobacco, as

I have understood. (Complt's counsel objects to so much of the above answer as is derived from the information of others.)

No. 15. Did you ever know or hear of his being engaged on any public work as a contractor, or in any character whatever, or that he has any knowledge or acquaintance with such business? If so, state when it was, where, and the work. (Question objected by complt's counsel for irrelevancy and illegality.)

Answer. I never knew or heard of Mr. Vallette being engaged on any public work until he took this contract of the Canal Company, nor since he completed said contract. I think he got his learning here. I don't know that he has any knowledge of such business except what he learned on said contract.

No. 16. What was the object of the bonus of $500\frac{00}{100}$ mentioned in the proposition of Vallette? (Complt's counsel objects to question as illegal and irrelevant.)

Ans. While the negotiations were going on we understood that Mr. Vallette had $500\frac{00}{100}$ in the small certificates of stock of the company (so I understood), and we asked him to give them to us, that is, to give us a bonus of that $500\frac{00}{100}$. (Def't's counsel objects to the answer so far as the witness states what he understood.)

No. 17. Have you any recollection at this time of the character of the bonus mentioned in said proposition? Have you not learned from Mr. Vallette, since this suit was commenced, what he considered it. (Complt's counsel objects to question as irrelevant, a repetition, and illegal.)

Ans. I have no recollection only as I have answered before. I have no recollection of ever having heard of Wm. Vallette, what he considered that bonus to be, either directly or indirectly, in any manner, shape, or form, from him, said Vallette, from that day to this.

No. 18. In what manner was the sum of $125,000\frac{00}{100}$, mentioned in the proposition of Vallette, arrived at?

Answer. Mr. Vallette's first proposition was $125,000\frac{00}{100}$, I believe, but was not accepted by the company. I do not know how that amount was arrived at, it was not accepted by the Board.

No. 19. Do you wish to be understood as saying, that the said proposition of Vallette, wherein the said sum of $125,000\frac{00}{100}$ is mentioned, was not accepted by the Board?

Ans. It was not as I know of. My understanding was that it was not accepted. My understanding was at the time that we asked Mr. Vallette to bring in a proposition what he would take the work at by the foot and by the yard, and the bases of the contract was based upon former contracts made by the State. I believe this was done at my suggestion. Vallette's first proposition was not accepted, but his second was based upon the contracts previously made by the State as I have stated, and I don't think the price given to Vallette varied much from the prices given by the State at the time the State let the work from Brookville to Lawrenceburgh. (Def't by counsel objected to the

witness stating his understanding as to what the basis of the contract was, and objects to that part of above answer as not responsive to the question.)

Ques. No. 20. Were the terms of Vallette's proposition arranged and agreed upon between him and the Board before the same was drawn up as presented?

Ans. There was no undertaking or agreement about the terms of the said proposition that I know of until the proposition was presented to and acted upon by the Board, and then the papers were ordered to be drawn up by the Board of Directors and were executed.

The further taking of these depositions was here adjourned, by agreement of all parties, until to-morrow morning, Nov. 6th, at 8 o'clock A. M.

The parties met pursuant to adjournment in person or by counsel, and the testimony of Daniel Hankins on "cross-examinations" proceeded as follows:—

Ques. No. 21. Were not the prices in the contract with Vallette for the various kinds of work fixed by the Engineer of the Company by the direction of the Board?

Ans. They were not to my knowledge, but the price as agreed upon was fixed by the Board of Directors and Mr. Vallette, as I understood it.

No. 22. Did Mr. Vallette present more than one proposition to the Board?

Ans. I have already stated that Mr. VALLETTE'S FIRST proposition to the Board was rejected, and the SECOND one handed in by him or some of his friends as was agreed upon.

Ques. No. 23. Was not the contract in which prices for the various kinds of work embraced in Vallette's proposition were specified, drawn up by the Engineer of the Company?

Ans. I don't know that they were, but I am inclined to the belief that they were not, for the reason that his first proposition came before the Board for $125,000, and do not think there was time until the second proposition came in, the first having been rejected as I have before stated. If my memory serves me right, when the second proposition of Mr. Vallette came before the Board it was written upon a piece of brown or coarse paper, and was written with a pencil in Mr. Parker's handwriting. In all probability Mr. Moore, the Engineer, did copy that proposition afterwards, though I don't know that such is the fact. (Deft's counsel objects to the answer as far as relates to the probability that Mr. Moore copied the proposition.)

Ques. 24. Could not the whole of the work specified in the proposition of Vallette have been let to contractors at less than the estimates of the costs by the Engineer of the Company?

Ans. I don't know what the estimate alluded to was, as there were several estimates made; one for cash and another for scrip, as I now believe. I cannot answer the question any fuller.

Ques. 25. Have you any recollection at this time of their being any more than one estimate of the cost of the work, made by the engineer of the company, and is not what you have stated, in relation to the several estimates of the cost being made, derived from the statements of Mr. Vallette?

(Compl't's counsel objects to the first section of question, because it is a repetition and illegal.) (The comp't's counsel here asked to have the question No. 24 in cross-ex. read to witness, with the answer thereto, which was done; to the doing of which def't by counsel objected.)

Ans. I have already stated that there was two or more estimates made, as I believe; but whether Mr. Moore the engineer made them all out or not, I am unable to say. What I state I state from my own knowledge and belief, and not from the statements of Mr. Vallette. I speak from my own knowledge and *papers*, and not from any information derived from Mr. Vallette.

Ques. 26. Are the papers to which you allude in your hands, or in whose hands are they?

(Comp't's counsel objects to question, because it is irrelevant and illegal.)

Ans. The papers to which I allude are not in my hands. I do not know in *in* whose hands they now are; one of the PAPERS alluded to Mr. Vallette showed to me some time ago, on which one of the estimates were written, but in whose handwriting it was I cannot say.

Ques. 27. Did the board contract with Vallette in the same manner they let all the other work on the canal to their contractors?

Ans. The letting to Mr. Vallette was as *some* of the contracts were let to other contractors, but not as they all were; some were advertised, and some were not. As far as my memory serves me, the company, in the first place, advertised for a letting of part of the work, that part between Connersville and Brookville. Some of the jobs were let without advertising. Mr. Vallette's job was, I believe, let without advertising. That is all the difference I know of. In regard to the letting between Connersville and Brookville, I state from what I understood, not from my own personal knowledge.

Ques. 28. Will you name any one with whom a contract was made in the same manner as with Vallette.

Ans. I cannot now state the name of any one with whom a similar contract was made. I believe the feeder dam job, below Connersville, was let in the same manner, though I cannot state positively. I believe, also, that there were other jobs in the neighborhood of Cambridge that were let in the same way before Mr. Vallette took his contract, and which were finished, but I cannot state certainly.

(Def't's counsel objected to that part of the answer where witness states his belief.)

Ques. 29. Was not the feeder dam below Connersville built by the company directly, by the employment of the hands to do the work?

(Pl't'ff objects to the question as irrelevant and illegal.)

Ans. It was either finished by the company or let without advertising, as I believe. It may have been finished by the company, but it was not advertised, as I have understood. I was not a Director at the time, and I only speak from hearsay.

Ques. 30. State whether the amount paid to Vallette by the company was not 100 per cent., or thereabouts, more than the estimated cost of the work by the engineer of the company, and whether the cost of the work was not less than the estimate; and if so, how much?

Ans. The contract by the company was to pay Vallette in the bonds of the company, and not cash. At the time the contract was made with Vallette the company was embarrassed and in debt, and no loans could be made by her for cash. It was at a time of great scarcity of money throughout the country. The products of the country, flour and pork particularly, was at low prices, and owing to all these circumstances, we presume there was a fair margin made for Mr. Vallette to be safe at any rate. The cost of the work as estimated by the engineer, between Vallette and his sub-contractors, was considerably less than the amount we paid him. We paid Mr. Vallette for the amount of the work done by him in the bonds of the company, according to the contract. In reference to that part of the question where asked, whether the cost of the work was not less than the estimate, I cannot state, as I do not know WHAT estimate is alluded to, whether the estimate between Vallette and the company, or the estimate between Vallette and his sub-contractors.

Ques. 31. Did the engineer of the company make out a cash estimate of the cost of the work embraced in the proposition of Mr. Vallette; if so, how much was it? Did the cost of the work, when done, of Vallette's sub-contractors exceed such estimate, as nearly as you can state from your own knowledge and belief?

Ans. I believe the engineer of the company did make out a cash estimate of the cost of the work embraced in such proposition, after the contract was made with Vallette, as the company was in the practice of having him do so. I cannot now say how much it was, but refer to the minutes of the proceedings of the Board of Directors. I cannot say how the costs of the work done by Vallette's sub-contractors compares with the estimate, as asked in the question, as I do not know what estimate is alluded to, there having been several estimates made, one between Vallette and his sub-contractors, and one between the company and Vallette. I could not answer the question correctly as do not remember the amount of the estimates.

Ques. 32. Did the work embraced in Vallette's proposition include more than one-half the work on the canal, between Cambridge and Connersville; if so, how much more?

Ans. I believe the work embraced in said proposition included most of the work between Connersville and Milton, and a part of the work between Milton and Cambridge, as I understood and now believe.

Ques. 33. Were the prices to be paid Vallette about double the prices paid by the company to other individuals for the same dscription of work, according to the best of your recollection?

Ans. I have already stated that the prices paid to Vallette were pretty much the same as were paid by the State when they let the canal between Brookville and Lawrenceburgh. I was not a Director when most of the work was let from Connersville to Brookville, and cannot say what prices the company paid to individuals for the same description of work.

Ques. 34. State whether the Board would have made the contract with Vallette had the Board been in funds to do the work, and whether the contract was not made under peculiar pressure upon the company for means to do the work; and whether Vallette at the time the contract was entered into, was not fully apprised of the necessities of the company?

Ans. I believe if we had had the money we could have done better. As I have already stated, the means of the company were pretty much exhausted. To what extent Mr. Vallette was apprised of the necessities of the company at the time of the contract, I am not aware, I do not now recollect. I do not believe we, the Board, would have made said contract with Vallette had we been in funds.

Ques. 35. Was it understood between the parties that the bonds to be issued to Vallette, as contemplated in his proposition, were to be secured by a pledge of the canal and the property of the company, as authorized by Section 18 of her character?

Ans. I can only answer that question by referring to the contract and the bonds and the minutes of the Board.

Ques. 36. Does the contract contain a description of the character of the bonds to be issued? (Complt's counsel object to the question on the ground that the contract is in writing, and its contents cannot be shown without proving its loss.)

Ans. I do not now recollect whether they do or do not.

Ques. 37. When was the canal completed to Connersville?

Ans. I believe it was about the same time Mr. Vallette completed this contract. I believe it was completed to Connersville in 1845. I think it was finished in the summer or fall of that year.

Ques. 37. State as near as you can what was the amount of stock subscribed to the company in real estate?

Ans. I believe that the charter of the company required us to have $400,000 or $500,000 subscribed before they were authorized to take the work from Brookville south. I have no recollection how much of that subscription was in real estate. I could only tell by referring to the subscription books; but I do know that a portion of it was in real estate, a part in cash, and a part in labor.

Ques. 39. What was the entire amount of stock subscribed and paid to the Company, and what was the entire cost of the work done by the Company?

Ans. I have already answered that the amount of stock sub-

scribed was four or five hundred thousand dollars; and I cannot state the amount paid to the Company, from the fact that the subscriptions were payable in 10 years, at the rate of 10 per cent. per annum, and I having left the Board in 1846, I cannot say whether all those subscriptions have been paid. I cannot now say what was the entire cost of the work done by the Company, but would refer to the books of the Company to show.

Ques. 40. What amount in value of real estate, subscribed for stock to the Company, remained unsold on the first of July, 1844; state if it was as much as $45,000, and if with the amount falling due for real estate that had been sold, it would amount to over $60,000. (Comp't's counsel objects to question for irrelevancy and illegality.)

Ans. It is impossible for me to now say how much of the real estate remained unsold on 1st July, 1844; but I believe that the available means of the Company were pretty much exhausted at that time. I cannot say what it would have amounted to with the proceeds of the real estate falling due; but refer to the minutes of the proceedings of the Board.

Ques. 41. Does the Report of the Secretary of the Company, dated July 1st, 1844, contain the truth in relation to the affairs and financial condition of the Company generally; and particularly in reference to their means and liabilities? (Comp't's counsel objects to question for irrelevancy and illegality.)

Ans. I believe that it does. I believe that he was in the habit of recording the proceeding of the Board correctly, as far as I know.

Ques. 42. Do you consider that the financial condition of the Company on the 1st of July, 1844, was merely temporarily embarrassed? (Comp't's counsel objects to question for illegality and irrelevancy.)

Ans. I think I have answered as fully as I can answer on that question, and decline answering any further in that behalf.

Ques. 43. Was the action of the Board in relation to the proposition in the contract of Vallette with the Company entered in the record of their proceedings? (Comp't's objects to question.)

Ans. For answer to that question, I refer to the minutes of the proceedings of the Board of Directors. (Comp't's counsel objects to answer.)

Ques. 44. Do you decline to give any further answer to question No 43?

Ans. I cannot answer question No. 43 any fuller than I have answered, from the fact that I do not know whether such action of the Board was so entered or not in their minutes, as I do not now recollect.

Ques. 45. Did the Board keep a record of their meetings, in which the proceedings had before them were entered? (Comp't objects to question.)

Ans. I believe they did.

Ques. 46. Do you pretend to recollect all that was discussed before the Board in relation to the proposition of Vallette, or the different modes of raising the money to complete that part of the canal between Connersville and Cambridge, then not let? (Comp't objects to question.)

Ans. I do not; nor do I believe six Connerville lawyers could have remembered it all.

Ques. 47. What do you mean by the issues of paper of the Company, spoken of in question 14, in the examination in chief, and in your answer thereto in your examination in chief? (Comp't objects to the question.)

Ans. I allude to issues of the Company issued in something like the form of a bank note, of the demonstration of 1's, 2's and 5's.

Ques. 48. Was said issues intended to circulate as money so far as the Company was concerned; and were the Company authorized to issue a circulating medium of any character whatever? (Comp't's counsel objects to question.)

Ans. I think said issues were not issued as money, but was redeemable in means of the Company, as real estate, subscriptions to the Company and labor; I believe I was not a Director when the scrip was issued; but I believe that the Board thought that they had the power to do all things proper to be done to complete the canal.

Ques. 49. Were these issues paid out by the company to their contractors and others in payment of debts due to them from the company, and did said issues of scrip go into circulation as paper money, or in any other manner to a considerable extent in the neighborhood of the canal? (Compt's counsel objects to question.)

Ans. Said issues of scrip were paid out to contractors; how far they were paid out to others I am not aware. I did not understand that they were in circulation as money, but understood they were in circulation as scrip of the company, and as such they circulated largely in the neighborhood of the canal.

Ques. 50. Were they paid from hand to hand by individuals in business transactions, the same as paper money at par, or otherwise? (Compt's counsel objects to question.)

Ans. They circulated in the neighborhood, and I understood that every man that took them, took them as canal scrip, and not as paper money. They also passed in payment of debts with those who felt disposed to take them; and they were taken to a very considerable extent by those who had subscribed stock to the company, as they were taken by the company in payment of subscriptions. They entered very largely into the payment of subscriptions to the company, and the merchants and mechanics, and farmers pretty generally took it when it was first issued. Along in the spring and summer of 1844, they got to be difficult to circulate, were at a considerable discount, and did not pass so readily. They were as low as from 50 to 60 cents to the dollar previous to Vallette's taking his contract, after that they got better; I then took them myself freely

at 87½@90 cents to the dollar for goods. I believe that many others then took them at from 75 to 90 cents to the dollar.

Ques. 51. What was the value of the capital stock of the company that was fully paid out in the spring of 1844, and after the 1st July, 1844, during the summer of that year? (Compt's counsel objects to question.)

Ans. I cannot now say as its value depended on the opinion of men, as to whether it, the cannl, would be finished or not, some thinking it would be finished, and others not, and those who had confidence in its being finished, being willing to give more for it than those who did not. It always was regarded as a fancy stock until the canal was finished, and I believe had no fixed value at any time until it was finished.

Ques. 52. Did you become acquainted with Mr. Vallette prior to the meeting of the board about the 1st July, 1844? (Compt's counsel objects to question because of its being a repetition.)

Ans. I have already stated that previous to the time Mr. Vallette came up to Connersville to make a contract with the board about the time referred to, I had no acquaintance with him. I did then become acquainted with him. He came up here some ten or fifteen days prior to his making his contract with the company, and during that time I became acquainted with him.

Ques. 53. Did he state to you what business had brought him here at the time you became acquainted with him? (Comp't objects to question.)

Ans. We had a good deal of conversation about the affairs of the canal company, and I have no doubt we talked about his making a contract with the company; though I don't remember any particulars, or whether there was anything at all said about it; though I have no doubt there was, as the affairs of the canal were the general topic of conversation in the county at that time. (Deft's counsel objects to that part of the answer not responsive to question.)

Ques. 54. What was Mr. Vallette's business here the one or two weeks he was here prior to the meeting of the board in July, 1844. State what you know in regard to it, and that only which you do know? (Comp't objects to question.)

Ans. Not being in the secret of Mr. Vallette's business, I cannot say what his business was; but I know of his going along the line of the canal with Mr. Helm and Mr. Parker, and I think I went once with him myself, being one of the directors at the time; I presume Mr. Vallette kept his business to himself, but I believe Mr. Vallette come up here to make a contract with the company. (Deft's counsel objected to his witness' belief being put down, and now objects to that part of the answer as not responsive to question.)

Ques. 55. How many bonds were issued to Vallette prior to the surrender spoken of by you; how many were surrendered? (Comp't objects to question as irrelevant and illegal.)

Ans. I cannot say how many bonds were issued to Vallette prior

to such surrender, as I was not on the Board from August or September, 1844, until January, 1845, as I now believe. I have already stated that all the bonds issued to Mr. Vallette prior to the bonds that he now holds were given up by him, and new ones issued in lieu thereof, as I have understood.

Ques. 56. From whom did you understand it, and when was it? (Comp't's counsel objects to question.)

Ans. I believe I understood it from Mr. Tupper, the Secretary, and Mr. Helm, the President of the Company. I so understood it about the time he finished his contract.

Ques. 57. Were you a member of the Board at the time of the surrender; or was it at the time you were not a member of the Board? (Comp't's counsel objects to question.)

Ans. I think I was a member of the Board at the time of the surrender, but think I was not present at the time; but would refer to the minutes of the proceedings of the Board to show whether I was or was not present, or whether I was a member or not. Because, from the great lapse of time, I think it impossible for any man to remember all the proceedings so as to state them clearly and fully under oath, unless he had the minutes of the proceedings to refer to. I have asked for the minutes of the proceedings referred to of the Secretary of the Company since I have commenced this deposition, and they have been refused me, at least they have not brought them in, consequently I have to refer, in a great many of my answers, to the minutes of the proceedings of the Board. (Def't's counsel objects to the statements of the witness why he cannot recollect, and to so much of his answer as is not responsive to the question.)

Ques. 58. Did the surrender of bonds spoken of by you embrace 112 bonds or any less number; or what number of bonds did it embrace? (Comp't's counsel objects to question.)

Ans. I believe I have already stated that I did not know the number of bonds surrendered.

Ques. 59. What was the object of the surrender of the bonds spoken of by you? (Comp't's counsel objects to question.)

Ans. I believe it was to have them all bearing the same date.

Ques. 60. You spoke a short time since of your having desired the minutes of the proceedings of the Board brought in by the Secretary of the Company. Have you not been to the office of the company repeatedly for the purpose of examining the minutes of the proceedings of the Board, and have you not at such times been allowed to make such examinations as you desired? Did you not lately go there and examine for the purpose of seeing when you were a director, and when you ceased to be such; and did you not take a memorandum of the times that you were elected and had resigned the office of director? (Comp't's counsel objects to question.)

Answer. I have been to the office of the company. I was there one or two weeks ago. I examined the minutes of the Board to ascertain when I was first elected and when I resigned. I was al-

lowed the privilege of examining the minutes of the proceedings of the Board. I took a memorandum at the time, which is here shown, containing a note of the time I was elected a director and when I resigned. I was allowed the privilege of examining the books of the company very courteously. I have no recollection of going there but one other time prior to the time referred to, and that was, I believe, in July or August last, some time prior to the time of giving my affidavit in this same case.

Ques. 61. When you desired the Secretary to bring in the minutes of the Board, as before spoken of by you, was it not in relation to some questions about the candidates for directors at a certain period? (Compl't' counsel objects to question.)

Ans. I believe it was on yesterday, and I don't now recollect what was the question asked me for which I desired the books. I can't recollect which question it was, as there has been so many asked me; but I desired the books to refer to in reference to some question that has been asked me.

Ques. 62. Is there a record of the issue of the bonds in question, and all others to Vallette, with the amounts thereof, and the time or times of said issue, among the proceedings of the Board. (Compt's counsel objects to question.)

Ans. I do not know.

Ques. 63. Did you state on your examination in chief that the amount of bonds issued to Vallette was, as you believed, $125,000 00? (Compt's counsel objects to question.)

Ans. What I statéd in my examination in chief I now believe to be correct. I answer as I have previously answered to question No. 19, in my examination in chief.

Ques. No. 64. Do you decline giving any further answer to question 63? (Compt's counsel objects to the question as being irrelevant, and illegal, and made for the purpose of consuming time.)

Ans. I do not now know the precise amount of bonds issued to Vallette, and therefore I do decline answering any further in that behalf.

Ques. No. 65. In what particular or particulars did Mr. Vallette desire Mr. Parker's advice? State what you know only in answer to the question. (Comp'ts object to the question.)

Ans. I know nothing about it myself. I would refer you to Mr. Parker.

Ques. No. 66. How did Mr. Parker act as the mutual adviser of the Canal Company and Mr. Vallette? State what you know only in answer to the question. (Comp't objects to the question.)

Ans. Mr. Parker acted as all friends would do, acting for two contracting parties, I presume. (Deft's counsel objects to the answer.)

Question 67. Do you know anything of the matter inquired of in question No. 66, of yourself? (Comp't objects to the question.)

Ans. If you can tell me of any more correct answer than I have to that question I will answer it most cheerfully.

Ques. 68. Have you any knowledge that Mr. Parker gave Mr. Vallette any advice? if so, state what it was. (Comp't objects to the question.)

Ans. I don't recollect of having been present except before the Board of Directors, when Mr. Parker gave any advice, and therefore I don't know, having a good deal of business to attend to myself. I don't recollect to have run about the country to look up other people's business.

By consent of parties the further taking of these depositions was here adjourned at five minutes before 6 o'clock P. M. until to-morrow morning, Nov. 7th, 1855, at 8 o'clock A. M.

November 7th, 1855. The parties met pursuant to adjournment, in person or by attorney, when the "cross examination" of Daniel Hankins was resumed, as follows:—

Ques. 69. What advice was given to Mr. Vallette by Mr. Parker, if any, before the Board? State what you know only, and not what you may think or believe. (Compt's counsel objects to question.)

Ans. I cannot now state.

Ques. 70. Do you know of yourself that Mr. Parker gave Mr. Vallette any legal advice in relation to his transaction with the Company? State what you know only, not what you may believe or think. (Compt's counsel objects to question.)

Ans. I do not know of any legal advice so given, of myself.

Ques. 71. Did Mr. Parker give Mr. Vallette any other advice in relation to Vallette's transaction with the Company? State what you know only, not what you may believe or think. (Compt's counsel objects to question.)

Ans. During Mr. Vallette's stay here, prior to the contract being made, I saw him, Mr. Parker, and Mr. Helm, frequently together. The office of the engineer of the Company was then held in a room of my dwelling-house. Mr. Vallette was frequently in there, with the officers of the Company and Mr. Parker. I supposed they were making arrangements to get up a contract. Mr. Parker was very action in procuring the charter of the Company, in getting up the contracts with the first contractors, and in getting up the contract with Vallette. I know Mr. Parker was the friend of the Company. I presume that Mr. Parker advised Mr. Vallette to take the contract of the Company. But I do not know that he did. I know that Mr. Parker was very anxious for Mr. Vallette to take the contract. From all that I could see or hear, Mr. Parker acted as the mutual friend of Mr. Vallette and the Canal Company—I know he did. (Deft's counsel objected to so much of the answer being taken down as is founded on belief, hearsay, and presumption, and now object to it for the same, and as not responsive to the question.)

Ques. 72. Do you know anything of the prices paid by the State

on that part of the work built by her? if so, state it. Were those prices about double those paid by the company for the same description of work? (Comp't's counsel objects to question.)

Ans. I do not now recollect the prices paid for work by the State; neither do I recollect the prices paid by the company. I was not a director at the time the company let the work from Connersville to Brookville, and here no recollection what the price paid by them was.

Ques. 73. Were the prices paid by the company on the work embraced in the proportion of Vallette the same as those paid by the State, on that part of the canal built by her for the same description of work.

Ans. As I have already stated, the prices of work so paid for by the State, were taken as the basis in fixing the prices on the contract with Vallette; they were pretty much the same, though they perhaps differed some, as I have previously stated in this deposition.

Ques. 74. How were the prices paid by the State on the work done by her, made the basis of the prices for the work embraced in the proposition of Vallette? (Comp't's counsel objects to question.)

Ans. It was talked of before the board, or else we had a printed contract, showing the prices paid by the State, I do not now recollect which, but I could not say exactly how we arrived at it. (Def't's counsel objects to answer, as not responsive to question.)

Ques. 75. Did the paper drawn up in pencil by Mr. Parker, contain the prices to be paid for the various kinds of work embraced in the proposition of Vallette? (Compl't's counsel objects to question.)

Ans. I here ask that that paper alluded to may be brought in to me by the secretary of the company, who is now here, in order that I may give the precise language of that paper itself, believing that it was filed in the office of the company.

It being demanded, and they having failed to bring it in, and I having forgotten its precise contents, I refer to the paper itself, now as I believe in the office of the company. It is so long ago since I saw it, that I cannot recollect its precise contents. (Def't's counsel objects to the answer, as not responsible to question.)

Ques. 76. What was the amount of the judgments now unpaid recovered by you against the company? if you recollect, state whether you have not sold property on execution on said judgments, at different times, and what is the balance of the judgments remaining unpaid; and whether you have an execution on the property of the company at this time. (Comp't counsel objects to question.)

Ans. I do not know the original amount of the judgments recovered by me against the company. I here caused property to be sold on execution on said judgments at different times. From a statement handed me by the Clerk of Fayette County, Indiana, there is yet due on judgments in my own name, about $\$860\frac{00}{100}$, and to the firm of Miller, Brown & Co., of which I was a partner, and have one-third interest, there is yet due the sum of about $\$400\frac{00}{100}$, with the interest, or upwards.

I have executions out, but I am not aware that they are levied on any property of the company at this time; I do not know of any to levy on.

Ques. 77. What is the amount of bond and dividend warrants held by you against the company, as near as you can state it?

Ans. I cannot say exactly, but the amount is between $\$50^{00}_{100}$ and $\$200^{00}_{100}$.

Ques. 78. Did the stockholders know the character of the contract with Vallette, or that it would secure to him about one hundred per cent. on what he might invest in said work? (Comp'ts counsel objects to question.)

Ans. Many of them did know of the character of the contract with Vallette. I do not know that any of them knew it would secure such per cent.

Ques. 79. Did the Board secure their re-election as Directors of the company in January, 1855, through the proxies obtained by them and others for their use? (Complt's counsel objects to question.)

Ans. I know that there was a large number of stockholders present at such election. There was a very full meeting of the stockholders from a distance, which always has been the case in every election, I have heard of from the beginning. (The complt's here demanded the books and records of the company, to assist the memory of the witness, of the President and Secretary of the company here present.)

Ques. 80. Was Judge Mount on the ticket with the other old Directors at such election? (Compt's counsel objects to question.)

Ans. I do not recollect.

Ques. 81. Did not the Board of Directors, individually, obtain a large number of proxies, and were not a large obtained by other individuals, and in some instances by the agents of the company to be used to elect the old Board of Directors, and were they not thus used at said election? (Complt's counsel objects to question.)

Ans. I believe some of the Directors had proxies, but who they voted for I don't know; proxies may have been obtained by other individuals; I have no recollection now to what extent, nor who they voted for.

Ques. 82. Did the company hold the real estate and produce which became enhanced in value on the completion of the canal, as testified by you in your examination in chief?

Ans. I think not; I meant, in what I said, the products and real estate of the community generally, not that of the company.

Ques. 83. Did the Directors have any knowledge of the manner in which the work embraced in the contract of Vallette was done?

Ans. I presume they did through their engineer, and several of them also were looking at it.

Ques. 84. Did you know that the tumble walls of every lock on that portion of the canal were not put up according to the terms of

the contract, and that one or two of them have fallen down in consequence thereof, and that in every other instance the tumble walls have had to be propped up to keep them from falling on that part of the canal? (Complt's counsel objects to question.)

Ans. I believe the entire work embraced in that contract was done to the entire satisfaction of the company, and under the direction of their engineer. It was my understanding that such tumble walls were put up according to contract, and were received by the company. I believe that one of them did fall down. I don't know that the tumble walls on that part of the canal have to be propped up. The tumble wall that fell down is immediately below what is called a four mile level, is situated in my own farm, and was washed down during a time of extraordinary flood in the canal, and it is only a wonder that more damage has not been done, and that that portion of the canal, finished by Mr. Vallette, has stood better and resisted better the extraordinary floods that have occurred, than *than* any other portion of the canal, as I believe and have understood. (Deft's counsel objects to answer.)

Ques. 85. Is not that part of the canal on higher ground, more remote from the river, and very much less exposed to damage from floods, than any other portion of the canal? (Complt's counsel objects to question.)

Ans. It is in my opinion on higher ground, more remote from the river, and less exposed to floods than other portions of the canal.

Ques. 861. How many bonds were issued to Vallette on account of interest? Did they differ from the other bonds except in the time they had to run, and were they not issued at 70 cents on $1 00?

Ans. Not knowing I could not say.

Ques. 87. Did the bonds that were to be issued to Vallette, as contemplated by his proposition to the company, differ from those which were issued to him; if so, in what respect?

Ans. I don't recollect.

Ques. 88. Whence was the sum of $125,000 00, mentioned in the bonds, taken, or how was it adopted? (Complt's counsel objects to question.)

Ans. I don't now recollect.

Ques. 89. State under what section in the charter of the company the bonds in question were issued, and attach the section to your answer to this interrogatory. (Complt's counsel objects to question.)

Ans. I don't now recollect under what section of the charter they were issued, and not having the bonds or the charter before me I cannot attach it to the answer.

Ques. 90. Did you understand at the time of the issue, or about the time, what section or sections of the charter of the company it was considered by the Board they had the power to issue the bonds in question? And if so, state whether it was section 18 of the charter. (Compt's counsel objects to question.)

Ans. Since answering the previous question I now have the charter

of the company before, and I believe that from the 18th section, and from the 1st section, and from the charter generally, the Board considered they had the power and right to make such a contract and to issue thereon such bonds as is in question. (Def't by counsel objects to answer as not responsive to the question.)

Ques. 91. If these bonds were not issued upon a loan from Vallette, of whom was the loan obtained on which they were issued? (Compt's object to the question because it is irrelevant, and assumes that a loan was made when no such loan was proven.)

Ans. I have already stated that the bonds issued to Vallette were issued on the contract with him for work and labor, and materials, and not for a loan. I also have already stated I know of no loan of any magnitude which the company ever obtained. There was never any loan obtained from Mr. Vallette, from first to last, to my knowledge. No loans were obtained of any one, to my knowledge, of money for which the bonds of the company were issued.

Ques. 92. If these bonds were not issued upon a loan by what authority were they issued? and please set out the authority for that issue. (Compt's counsel objects to question.)

Ans. I believe I have fully answered that question in the answer to question No. 90.

Ques. 93. Did the Board entertain the opinion that they were authorized to issue the bonds in question under the 18th section of the charter, and were they issued as if upon a loan of money from Vallette to the company for the amount of bonds issued? (Compt's counsel objects to question.)

Ans. I believe the company thought they had the power to issue the bonds under the charter of the White Water Valley Canal Company, and that they so did. The said bonds were issued to Vallette on the contract with him for work and labor done, and materials furnished by him to the company, as I here previously stated. (Deft's counsel objects to the answer as not responsive to the question.)

Ques. 94. Why did not the Directors receive the amount of the estimated cost of the work in money from Vallette or the amount they desired to loan, and issue Vallette the bonds directly therefor? (Compt's counsel objects to question for reason that it contains assumption that a loan was made by Vallette to the company when there is no proof of such fact.)

Ans. There never was any loan of money offered by Mr. Vallette, nor was one ever discussed to my knowledge as I have stated before.

Ques. 95. Would the Directors have preferred to issue their bonds to Vallette and receive from him the amount of money they desired to complete the canal to the plan adopted? (Objected to by compt's counsel as irrelevant.)

Ans. I can only answer as to what the Board did, and not as to what they would have done.

Ques. 96. Did Vallette decline loaning the money directly to the company and receiving the bonds in question therefor at once on the

Ans. I had, I believe, $16,000 subscribed to the company in July, 1844, previous to the organization of the company, and some time after the books were opened, I subscribed $6,000, as I believe some time previous to the organization of the company, I was asked by several friends of the company whom I do not now remember, to solicit subscriptions in Cincinnati. I got a very little or none subscribed for at that time. On applying for subscriptions in Cincinnati, previous to the organization of the company, a second time, I obtained, I think, about $16,000 of subscriptions, which they subscribed with the condition that the amount of their subscriptions should by me be subscribed on the books of the company, one-half of which was to be paid when the canal was finished to Connersville, and the other half to Cambridge. When I came up, I assigned and transferred such subscriptions to a company of about 20 men, called "Ira Lockey & Co.," on the understanding that they would subscribe that amount of stock on the books; they failed to make such subscription as was to be done, by the terms of the original subscription by the Cincinnati men, and to prevent its being lost, they reassigned such subscriptions back to me, on the condition that I would take in my own name $10,000 additional stock. I subscribed in accordance therewith such amount, which, with my original subscription of $6,000, made 16,000. The subscription of the Cincinnati men was made payable to me or my assigns. When the canal was completed to the points referred to, the men were to take the stock of me, and pay at par.

Ques. 106. State whether Vallette took your affidavit *ex parte*, to be read on an interlocutory motion in this cause, and state how often he has talked with you about this case, and in regard to what you would state.

(Compl't's counsel objects to question.)

Ans. Mr. Vallette did so take my affidavit in June, July or August last. I don't now recollect about Mr. Vallette with me particularly about this case, though I have heard him speaking of it very frequently, as it appeared to be uppermost in his mind. I don't know that he ever asked me particularly what I would state in this case.

Ques. 107. State whether Mr. Vallette showed you a copy of Mr. Parker's deposition taken before Judge Reid in this cause, or read you parts of it; also whether he has shown you the deposition or copy thereof of Mr. Helm, so taken, or reads you parts thereof, or stated to you any matters to which he had testified.

Ans. Mr. Vallette never showed to me, or read to me Mr. Parker's deposition, or any parts thereof. He has never has shown me Mr. Helm's deposition, or a copy thereof, nor any part of it, nor read it to me, nor have I any recollection of his having stated to me any matters to which Helm had testified.

Ques. 108. Did Mr. Vallette ask you to be present when Mr. Parker's deposition was read?

Ans. He did ask me to go down. I did go there, and heard it read at the time that Mr. Parker signed it.

Ques. 109. Who wrote the affidavit that you made last summer, and also Mr. Helm's?

(Compl't's counsel objects to question.)

Ans. I believe Mr. Parker wrote it. I don't know who wrote Mr. Helm's.

Ques. 110. Have you not expressed hostile feelings towards the Canal Company for several years past, and at different times stated that you would prosecute them every opportunity you could obtain; and have you not followed out your declarations, and brought suits against the company, and who has been your attorney in these proceedings? (Compl't's counsel objects to question.)

Ans. I have at times, since the present Board of Directors has had the management, expressed hostile feelings against the Canal Co., and before. It is not unlikely but what I have said I would prosecute them, for the reason that they have almost universally failed to comply with their contracts, particularly the last 3 or 4 years. I have been compelled to sue them on my debts, to try to collect my money. In these proceedings I think Messrs. Parker & Parker & McIntosh have been my attorneys.

Ques. 111. Was Mr. Parker the attorney in the case of Messrs. Wall against the Company, in a suit for damage to their mill power, in which the claim $10,000^{00}_{100}$ damages.

(Compl't's counsel objects to the question.)

Ans. I do not know.

The cross-examination here closed.

Ques. 1. In reference to your answer to question 110, cross-ex., state what suits you have brought against the Canal Company in the last 4 years, and state how you obtained the claims, on which you have brought suits against the said Canal Company.

(Def't's counsel objects to so much of the question as is not rebutting.)

Ans. Since 1847, I think I have brought 5 suits against said company, perhaps more. Two of them I think have been satisfied by sales of real property, perhaps 2 and 3 yet stand unsatisfied, as I have before stated. Two of the suits was brought, I think, for a claim of loaned money, loaned to the Canal Company to repair the damages of a break, in my opinion—one of them was for canal scrip that I sued them on. I do not recollect what the other were was for.

Ques. 2. State how far previous difficulties between you and the Canal Company, would bias your testimony or prevent you from stating the truth in this deposition.

(Def't's counsel objects to question.)

Ans. I know myself neither all the canal, nor all who are concerned, nor all the said difficulties, would bias me or prevent me from telling the truth herein.

Ques. 3. In reference to your answer, in cross-ex., state whether efforts have been made by officers of the White Water Valley Canal Company to intimidate and tamper with you, to prevent you from giving correct testimony in this cause; if so, state the time and place, by whom, and what occurred.

(Def't's counsel objects to question so far as is not rebutting.)

Ans. Mr. Conwell, the President of the Company, at the office of Mr. Parker, and on the day I heard Mr. Parker's deposition read, asked me if I knew whether the date of my deed for the farm called the "Dickey Farm," purchased by me of the White Water Valley Canal Company, was after the date of the letting to Vallette, and stated that if it was so, I stood a fair chance to lose my land; that Vallette has sold, as I understood him, $36,000 00 of his bonds in New York; that his opinion clearly was that the old Board of Directors were liable for the amount of those bonds if this suit went against the Company, and for Mr. Vallette; that he did not think it was right that Mr. Vallette should have all the proceeds of the canal, and the men who had repaired it got nothing. He mentioned further that the Company had paid Mr. Vallette large sums of money for interest; that he got most of the earnings of the canal.

Whether Mr. Conwell told me this with a view of intimidating me or not, I cannot say. He may have said it with such intention, or he may not have done so. I hardly suppose that he did so intend.

Ques. 4. Did you or did you not believe at the time Mr. Conwell made the above communications to you, that his intention was to intimidate or tamper with you, and to influence you in your testimony, if taken in this cause? (Deft's counsel objects to the question.)

Ans. It struck me forcibly at the time that such might have been the intention, as Mr. Conwell was aware, I presume, that Mr. Vallette intended to take the depositions of the old Directors.

Ques. 5. In reference to your answer to question 57, cross-ex., state to whom you made application to examine the minutes of the proceedings of the old Board of Directors, where you wanted to make that examination, the time you made the application, if during your present examination as a witness, and what reply was made to you. (Deft's counsel objects to question.)

Ans. I made such application to Mr. Lawrence, the Secretary of the Company. Always when I have applied at the office of the canal company the books have been shown to me. I did ask that the book be brought in here, which was not done.

Ques. 6. In your cross-examination you say that Vallette made two propositions were in writing, or whether there was a verbal one. (Deft's counsel objects to the question.)

Ans. My impression is that the first proposition so made was a verbal one, and that the second one was in writing, as I have previously stated.

Ques. 7. In your cross-ex. you say the engineer made estimates

after the contract was made with Vallette. Did or did not the engineer make several estimates for the use of the Board, before the contract was made with Vallette? (Deft's counsel objects to question.)

Ans. He made several estimates for such use, before such contract was made.

Ques. 8. State whether it was at the first or second election after the contract with Mr. Vallette, that Messrs. Fryberger, Conwell, and others were candidates for directors, and Baten. (Deft's counsel objects to question.

Ans. I cannot now state. But refers to the records of the proceedings of the Board.

Ques. 9. Have you or have you not applied to A. B. Conwell, President of the Canal Company, and Wells E. Lawrence, the Secretary of the same, to go across the street from this place to the canal office to examine the minutes of the Board of Directors, to enable you to answer the question last proposed to you? If so, state when you have applied, and what answer or satisfaction has been given to you. (Deft's counsel objects to the question.)

Ans. I have applied, a few moments ago, to both the said President and Secretary, to examine said minutes, in order to satisfy myself fully as to the question alluded, and they have both refused up to this time to go with *with* me, and show me the minutes referred to.

Ques. 10. State what effect, if any, the contract with Vallette had in enabling the Company to complete the canal within the time required in the contract with the State, and thus prevent a forfeiture of the rights of the Company. (Deft's counsel objects to question.)

Ans. The contract with Mr. Vallette enabled the Company to complete the work within the time specified in their charter. It was my opinion, and the opinion of several others, that if the contract had not been made with Mr. Vallette by the Company, the work was in danger of being forfeited to the State, as the most of the available means, and most of the lands that belonged to the Company were sold and anticipated, and the cash, stock, and all other stock as subscribed to the Company, was payable in ten years at the rate of 10 per cent. per annum. It was a kind of subscription that was hard to make a canal on in five years with the great scarcity of money at that time. (Deft's counsel objects to the answer.)

DANIEL HANKINS.

The further taking of these depositions was here adjourned until to-morrow morning, Nov. 8th, 1855, at 9 o'clock.

SAM. HERON,
Notary Public.

By order of complainant, the depositions were here closed.

SAM. HERON,
Notary Public

Defendant's Depositions.

Deposition of David Moore, the Secretary of the Company, taken in this form by agreement of parties:

Ques. 1st. "Show the issue of bonds to Vallette, the time when, the amount, their execution by the officers of the Company, and the resolutions of the Board directing the same."

Ans. One hundred and twelve bonds, of $1000 each, were issued to Mr. Vallette on the 1st February, 1845, and four bonds, $1000 each, on the 9th July, 1845; the 112 bonds first issued were made payable ten years after date, bearing interest at the rate of seven per cent. per annum, payable semi-annually, at the office of John Ward & Co., in the city of New York. Of the 4 bonds last issued, two were payable in two years and two in three years, bearing the same interest, and payable as aforesaid. The bonds were all signed by the President and attested by the Secretary of the Company. (For resolutions of the Board directing the same, see certified copy of orders enclosed, marked B.)

Quest. 2d. "That no part of the principal of these bonds has been paid; how much of the interest has been paid, and how much is due?"

Ans. The Company has paid no part of the principal of said bonds. The amount of interest due and unpaid up to 1st August, 1848, is $14,840; less amount paid Vallette 11th October, 1848, $738.86—$14,101.14.

Ques. 3d. "That the Company have sold and disposed of a portion of their property since these bonds were issued; how much, what property, and for what?"

Ans. The Company has sold since the issue of said bonds (1st February, 1845), real estate amounting to $27,997.19, and agreed to receive pay as follows, to wit:

In capital stock of the Company,	$21,089 69	
" Cash,	5,307 50	
And in labor on the canal,	1,600 00	
		$27,997 19

Ques. 4th. "That the Company did issue the notes declared illegal; to what amount, and what their agreement was to receive the same for Company dues, tolls and water rents?"

Ans. The Company did issue the notes declared illegal to the amount of $27,970.00. (For agreement of the Company to receive the same for Company dues, see blank forms of notes enclosed, marked C.)

Ques. 5th. "The amount of the indebtedness of the Company, designating how much by bonds, by notes, certificates, and the supposed amount otherwise, &c. &c."

Ans. The liabilities of the Company, exclusive of the capital stock, are as follows, to wit:

On account of bonds issued to Vallette,	$116,000 00
" " " Interest on the same,	14,101 14
" " " Domestic bonds (declared illegal,)	26,795 00
" " " Notes payable,	34,467 07
" " " Small certificates,	12,338 00
And the supposed amount otherwise,	60,000 00
Total liabilities,	$263,701 21

Ques. 6th. "The amount and supposed value of lands, property, claims and assets of the Company, designating the amount of each, &c."

Ans. The assets of the Company, exclusive of the stock owned by it, are as follows, to wit:

Real Estate, appraised at	$23,247 96
Yet to be received on account of stock,	27,214 59
Miscellaneous debts due the Company, such as real estate and stock notes, uncollected water rents, bal., 10 per cent. assessment on stock for repairs of 1848, &c.,	19,703 61
Total means,	$70,166 16

Ques. 7th. "What amount of the notes illegally issued have been redeemed since the bill was filed, and how much before?"

Ans. The whole amount of notes ("illegally issued") redeemed up to this time is $1,175.00. These were all redeemed prior to the service of a copy of the injunction by the Marshal of this State; there has been none redeemed since that time.

Ques. 8th. "What is the present annual income of the Company of rent of water-power—how is it paid, and at what time?"

Ans. The amount of rents of water-power for the year 1846, was $5,016.83; for the year 1847, $1,518.33; and for the six months ending 1st June, 1848, $1,996.81. The whole amount of water-power leased, would (provided the lessees had water all the time) amount to $9,425.00 per annum. The rents are made payable semi-annually, at the office of the Company, on the first days of June and December each year.

Ques. 9th. "What had been the receipts of the Company for tolls, since the opening of navigation on the 16th or 18th September up to the first day of October; also, what you estimate the receipts of the canal to be for the next 12 months, provided no accident should happen to suspend navigation?"

Ans. The receipt for tolls since the opening of navigation of 1848 up to the first day of October, were two thousand seven hundred and twenty-eight dollars and 89 cents ($2,728 89). I think the receipts for the next 12 months will amount to sixty thousand dollars

($60,000), provided navigation should not be suspended more than two months.

Ques. 10th. "What will be the expense of keeping up the navigation of the canal under ordinary circumstances, aside from freshets, &c., from the best information you can obtain?

Ans. From the best information I can obtain (the opinion of the engineer), the annual expense of keeping up the navigation of the canal will, aside from freshets, amount to fifteen thousand dollars.

Ques. 11th. "What was the amount of paper 'declared illegal' that was ordered to be printed and prepared to be issued by the Board or by their orders?"

Ans. The amount of bonds (declared illegal) that was ordered to be printed by the Board was seventy thousand dollars ($70,000), and the amount prepared to be issued and deposited with the Treasurer for that purpose, was forty-one thousand five hundred and eighty-five dollars ($41,585).

Ques. 12th. Were you or were you not present, some time in the month of August in 1847, when said Vallette urged on the Board the payment of a small part of his interest? "If you was present, state what occurred then; and, as near as you can remember, what was the amount of cash and notes then on hand in the possession of the company?

Ans. I was present on the 16th or 17th of August, 1847, and heard Mr. Vallette urge the Board to pay the interest on 26 bonds issued to him, and then held by some person or persons in the City of New York; that if the Board would pay said interest he, Vallette, would not commence suit against the company before the first of February, 1848. The Board agreed that, if Messrs. Conwell & Shoup, agents, should succeed in effecting loans or subscriptions for the repairs of the canal in Lawrenceburgh or elsewhere, amounting to $5000, that they would pay the interest and exchange on the 26 bonds. From the books of the Treasurer, I find that the amount of cash on hand on the 16th August, 1847, was $7,390 85, and that the company had at that time in their possession in promissory notes loaned it to repair the canal, $11,840 00. The interest demanded on the 26 bonds amounted to $910 00.

Since the foregoing answers were made out the company has paid to Mr. Vallette, on account of interest, $1,298 23.

There has also been paid to contractors, and on acc't of repairs since, the sum of twenty-five hundred and sixty-seven ($2,567 00) dollars.

Mem. The foregoing answers were all made out in the month of October, 1848, except the answer to the last query.

It is agreed by the White Water Valley Canal Company and the other defendants in the foregoing case, that the foregoing statements under oath of David Moore, Secretary of said Company, with exhibits, shall be received in evidence in the same manner as if his deposition had been regularly taken, reserving to the defendants any ob-

jections to the competency of the proof in the same manner as if such deposition had been taken in the usual way.

JOHN S. NEWMAN,
Pres't and Att'y.

S. W. PARKER,
Compl't's Sol.

"*Exhibit B.*"

OFFICE WHITE WATER VALLEY CANAL CO.

Connersville, 2d July, 1844.

Ordered that the President, together with Sam'l W. Parker, the Attorney of the Company, be and they are hereby appointed to prepare the form of the bonds to be issued to Henry Vallette, adjusting that matter according to the contract in this behalf, and in such a way as they may deem most satisfactory, and as will be best calculated to secure the prompt payment of the interest as it becomes due.

8th October, 1844.

The President and Sam'l W. Parker, Attorney of the Company, heretofore appointed to prepare the *form* of the bonds to be issued to Henry Vallette, now report the following *form* for said bonds, to wit (for form, see blank bond inclosed, marked A).

And it appearing that said form is satisfactory to said Vallette, the same is approved by the company, and in said form said bonds are ordered to be issued to the said Vallette, with the proper dividend warrants to be hereto attached. And it is further ordered that the President and Secretary procure a sufficient number of said bonds to be printed, and that they fill up, execute, and deliver the same to the said Vallette from time to time, as they may become due him, agreeably to his contract with the company, taking his receipt therefor.

3d March, 1845.

Ordered that in case Henry Vallette deliver up to the company to be cancelled the bonds heretofore issued to him, that other bonds in lieu thereof be issued to him, dated on and drawing interest from the first day of February, 1845, and that all bonds hereafter to be issued to him in this behalf shall in like manner be dated on, and made to draw interest from the same time.

I hereby certify that the foregoing orders are correctly copied from the records of this company.

Witness my hand and the seal of said Company this 23d October, 1848.

[SEAL.] DAVID MOORE,
Sec't'y.

Exhibit "C," referred to in foregoing Deposition.

[Not used.]

No. [ ] Five Dollars.

Two years after date, the White Water Valley Canal Company promise to pay or bearer, Five Dollars, for value received, with interest at the rate of six per cent. per annum. Receivable at all times for Tolls and Water Rents. If taken up before maturity, no Interest allowed. Connersville, 184

Pres't.

Sec'y.

For "Exhibit A" attached to this deposition, see page 71 of this record.

Depositions of sundry witnesses taken before me, a Notary Public, within and for the County of Hamilton, in the State of Ohio, on the seventeenth day of November, in the year 1855, between the hours of eight o'clock A. M., and 6 o'clock P. M., at the office of N. C. McLean, No. 8 Hart's Building, in the City of Cincinnati, in said county, pursuant to the annexed notice to be read in evidence on the part of the defendant in the said action. Present, the pl'tff, and defendant by N. C. McLean, att'y.

George Graham of lawful age being by me first examined, cautioned, and solemnly sworn, deposeth and says as follows:—

Question 1. What is your name, and where do reside?

Answer. George Graham; I reside on 4th St. in Cincinnati.

Question 2. How long have you resided in the City of Cincinnati?

Answer. Thirty-one years.

Question 3. Were you acquainted with a firm of the name of Ellis & Vallette, doing business in Cincinnati, and if yea, what was the nature of their business?

Answer. I was. They were doing business as brokers, dealing in exchanges, buying and selling bank paper.

Question 4. Was this all the business they did?

Answer. I no not know whether they were doing a general banking business or not; they were brokers, and doing a regular broker's business.

Question 5. Was it a part of a regular broker's business to lend money, as well as to buy bank paper, and deal in exchanges? (Objected to by plt'ff.

Answer. Some brokers lent money, and some did not.

Question 6. Have you any knowledge of Ellis & Vallette lending money?

Answer. I have no personal knowledge of their lending money.

Question 7. Were ever employed by the White Water Valley Canal Company to sell their bonds, and if yea, state what you did in the premises?

Answer. In July, 1843, Griffin Taylor and myself were employed by the White Water Valley Canal Co., to sell one hundred and twelve bonds of a thousand dollars each in New York, or Boston, or any of the eastern cities, at any price over ninety cents on the dollar. The bonds bearing six per cent. interest, or to negotiate a loan on said bonds, valued at eighty cents, the loan to bear six per cent. interest. We failed to make any negotiations, or to sell the bonds.

Question 8. To what parties in New York did you offer the bonds?

Answer. We offered them to John Ward & Co., and to other capitalists.

Question 9. What sum was offered you, if any, by John Ward & Co. for the bonds?

Answer. I do not recollect the precise sum that was offered. I do not recollect that any particular sum was offered for them.

Question 10. After your return from New York, did you have any conversation with Henry Vallette upon the subject of the bonds of the White Water Valley Canal Co., and if yea, state as near as you can what that conversation was?

Answer. I had no conversation with Vallette immediately upon my return.

Question 11. Did you have any such conversation with H. Vallette at any later period, and if so, state as near as you can the time, and what that conversation was?

Answer. I had a conversation with H. Vallette upon the subject of completing the unfinished portion of the canal to Cambridge City. The time of this conversation I do not recollect. I informed him what I supposed it could be done for, and what I supposed it would cost. I informed him that I had estimates of the cost made out by Mr. Moore, the engineer, and furnished me by the board. The estimates and others of my own, I took to New York to aid in selling the bonds.

Adjourned till Monday, 19th inst., at 9 o'clock A. M.

Monday, 19th inst., met pursuant to adjournment, and examination resumed.

Question 12. What was the reason of your informing Mr. Vallette that you had the estimates of Mr. Moore of the cost of the unfinished portion of the canal to Cambridge City?

Answer. I wished to have the canal finished. I was interested in the town of Cambridge City. I wished to impress upon Mr. Vallette the cost of finishing the canal. That it could be done for a certain sum of money according to my estimates. I wished to impress Mr. Vallette with the cheapness at which the work could be done.

Question 13. What object had you in view in impressing Mr. Vallette with the cheapness with which the work could be done?

Answer. I had a large interest in Cambridge City, and wished the canal finished.

Answer. No, sir, I cannot swear to any particular percentage.

Question 34. With whom did you leave the estimates about which you have testified?

Answer. I left those estimates in Ellis & Vallette's office, and two or three years after Mr. Ellis handed them back to me.

Question 35. In the conversation referred to did you inform Mr. Vallette of the number of bonds he could get for the work?

Answer. I cannot recollect that.

Question 36. Did you have any other conversations with Vallette other than those you have testified about, at or about the same period?

Answer. I had two or three conversations with Mr. Vallette upon the subject, before the contract was taken.

Question 37. In any of these conversations, other than those about which you have testified, was anything said about the bonds of the Co.?

Answer. I think I informed Mr. Vallette that I had been to New York with Mr. Taylor to sell the bonds, and had failed to do so.

Cross-examination.

1st Question by complainant's counsel. Did you have any conversation with Mr. Vallette until after Mr. Taylor had introduced Mr. Helm, the President of the Company, to him, and was not that in the spring or summer of 1844? Did not Mr. Vallette tell you Mr. Helm had called to see him on the subject?

Ans. I do not recollect the time. I do not recollect that Mr. Vallette mentioned Mr. Helm's name, or Mr. Taylor's.

2d by same. Please state whether the estimates you speak of were of the whole work from Laurel to Cambridge, or of what portions. Do you recollect the part of the year 1843 you tried to sell the bonds in New York, and was you able to sell them at any price?

Answer. The estimates were for finishing the canal. I had the estimates for finishing the whole canal, but particularly from Connersville to Cambridge City. The bonds were received from the Co. on the third of August, 1843, and they were offered in New York during the month of August. We could have sold at some price but not at the price limited, which was ninety cents.

3d by same. Please state whether you, or the Directors of the Company, Griffin Taylor, or any other person, made any and what exertions to borrow money for the White Water Valley Canal Company to finish the canal after your return from New York, and before Vallette contracted to finish the canal, and what was the result of such exertions.

Answer. I did not make any, nor do I know personally of any efforts being made by the company.

4th by same. Whether the estimate of $60,000 made by the Engineer was not for the work between Connersville and Cambridge.

Answer. I cannot say positively whether it was or not; my impression is that it was for the whole work. I am certain that it included the work between Cambridge and Connersville, but am not positive as to the work below Connersville. These were estimates made by myself, aided by data furnished by the company and the engineer.

5th by same. Did the company do any work during the year 1843 and in the year 1844, before Vallette made his contract?

Answer. I think the work was generally suspended on the line. There might have been some small jobs doing but none of any consequence. I believe they had no money.

GEO. GRAHAM.

I, Y. A. Nesmith, a Notary Public in and for the County of Hamilton, and State of Ohio, do hereby certify that George Graham was by me sworn to testify to the truth, the whole truth, and nothing but the truth, and that the deposition by him subscribed as above set forth was reduced to writing by myself in the presence of the witness, and was subscribed by the said witness in my presence, and was taken at the time and place in the annexed notice specified, and continued by adjournment from day to day as above stated.

[L. S.] Y. A. NESMITH,
Notary Public Ham. Co., Ohio.

Depositions of sundry witnesses taken on the 27th day of March, A. D. 1856, at the office of N. C. McLean, Esq., in the City of Cincinnati, County of Hamilton, and State of Ohio, before me, Hiram Powers, a Notary Public within and for said County and State, to be read in evidence on behalf of the defendant in a certain action in chancery now pending in the Circuit Court of the United States, within and for the Seventh Circuit and District of Indiana, wherein Henry Vallette is plaintiff, and the White Water Valley Canal Company is defendant; said depositions being taken in pursuance of the notice hereto attached.

Joseph Torrence, of the City of Cincinnati, of lawful age, being produced on behalf of defendant, and duly examined, cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says by deft's counsel:—

Question 1. State your name, place of residence, and business.

Answer. Joseph Torrence. Residence Cincinnati. Manufacturer on the White Water Canal.

Question 2. State if you have any knowledge of the damage done to the White Water Valley Canal in the year 1852 by the floods of that year, and the means resorted to by the White Water Valley Canal Company to raise money to repair that damage as connected with Henry Vallette.

Answer. I have but little knowledge of the actual damage except by hearsay. I understood the canal to have been laid waste by the

floods in the year 1852, and was requested by telegraph from the Directors at Connersville to call on Mr. Vallette and see whether he would take the canal and repair it, receiving the first tolls to reimburse him. In compliance with which I called at Mr. Vallette's house on the evening of January the 14th, 1853, and there found Mr. G. Y. Roots and Henry Vallette in conversation upon the same subject. During which conversation Mr. Vallette refused to have anything to do with the canal, but expressed his willingness to do what he considered his share, at the same time giving Mr. Roots a written dispatch to this effect: "I decline having anything to do with the canal. I will extend the next August's interest six months," dated January the 14th, 1853, signed H. Vallette, which he thought was as much as he should do. The proposition to borrow money of individuals upon the pledge of the tolls was talked over by Mr. Vallette and Mr. Roots, during which conversation (objected to by plaintiff) I fully understood Mr. Vallette to assent to the arrangement. In general terms the understanding was, that Vallette was to waive his coupons until the money to be borrowed was paid by the first tolls after the completion of the repairs of the canal. This understanding was reported to the Board, after which money was borrowed of sundry individuals in and about the City of Cincinnati, upon the pledge of the first tolls after the completion of the canal, which amounts, with the exception of twenty per cent., have not as yet been paid to the best of my knowledge and belief. In common with these individuals, C. W. West & Co., of which firm I am a member, advanced $1500, of which sum we have received twenty per cent., say $300. The balance remains unpaid.

Question 3d. In the conversation with Henry Vallette, about which you have testified, was there any distinct understanding in reference to the postponement of the payment of his interest coupons upon the bonds which he held of the White Water Valley Canal Company, until the individuals who should advance money to repair the canal, could be repaired, and if so, state what that understanding was as expressed to you by Vallette?

Answer. During this conversation spoken of, Mr. Roots remarked to Mr. Vallette, that no one would lend money to the canal company for these repairs during the existence of his lien, or the liability of having the tolls enjoined for the payment of his claim. I understood Mr. Vallette to reply to Mr. Roots, that he thought this offer already made was sufficient, and fully his share; but, if it were not, he would do what was right in the premises, and would not be in the way of this loan, as proposed to be made from individuals.

Question 4th. State, if you can, the names of any other individuals in the city of Cincinnati, or vicinity, who advanced money to the White Water Valley Canal Company, to make these repairs, upon the faith of the agreement and understanding of which you have spoken?

Answer. At the time of the payment of the twenty per cent. re-

ferred to heretofore, I refunded money for the White Water Valley Canal Company to Roots & Co., John Swasey & Co., Walker and Brother, H. D. Chipman & Co., Sherwood & Co., Day & Matlock, Corney, Swift & Co., Comstock, Wilcox & Co., Ingram & Co., Abraham Palmer, Huntingdon & Brooks, Hunnewell, Hill & Co., Stadler & Brother, R. W. Booth & Co., Watts & Colburn, Reeves, Stephens & Co., Tyler, Davidson & Co., Miller & Brown, Ridgley & Brothers, H. Clearwater, and others.

Cross-examination by Plaintiff.

Question 1. State whether you found Mr. Roots at the house of Mr. Vallette, or whether you came there with him, upon the occasion referred to.

Answer. I found him there, and, from their conversation, presume he had been there some considerable time.

Question 2. Had you and Mr. Roots not agreed to meet each other, on that occasion, at the house of Mr. Vallette?

Answer. I have no recollection of any such understanding.

Question 3d. Had there been no conversation between you and Mr. Roots to that effect previously?

Answer. I think not, I went there in compliance with the dispatch I received from Connersville.

Question 4th. Do you state that, on the occasion you refer to, of meeting Mr. Roots at my house, that it occurred by accident, without previous conversation between you and Roots?

Answer. That's my impression. I think the dispatch I received from Connersville stated that Mr. Roots had been dispatched. My impression is that I did not receive the dispatch until I came up town from the office of C. W. West & Co. I got the dispatch the same evening I went to the house of Vallette.

Question 5th. Had you, as the partner of C. W. West & Co., an interest in having the canal repaired?

Answer. Yes.

Question 6th. State what that interest was.

Answer. C. W. West & Co. have a mill on the White Water Canal, and received our water power from it.

Question 7th. What was the value of that mill before the White Water Valley Canal broke—not the land, but the mill?

Answer. The mill was run by both, or either water power or steam power; I presume it was worth from $15,000 to $20,000.

Question 8th. State what was the difference in the annual expense of running that mill by water power or by steam power?

Answer. That's a question I could not answer, without going into an extensive calculation. The steam-power was run at a greater cost per annum, but during the time we were running by steam, could manufacture a greater quantity of flour.

Question 9. Do you use steam power generally in running that mill when you have water power from the canal?

Answer. We do not.

Question 10. After the canal was repaired, did you remove the steam power?

Answer. We did not.

Question 11. Has it been removed since?

Answer. It is now being removed, we having sold the land on which the mill stands.

Question 12. How much money did you and your partner subscribe towards repairing the canal upon that occasion?

Answer. C. W. West & Co. subscribed $1,500, to the best of my knowledge.

Question 13. Was not your mill, when the water power was given to it, made more valuable than $1,500, compared with its condition before the canal was repaired.

Answer. I suppose it was.

Question 14. Do you not reap advantages from that canal, independent of the water power, in transacting business upon it in purchasing wheat, &c., on the line of it?

Answer. We did, to some extent, at the time referred to in 1853, but we do not now worthy of notice.

Question 15. Was any other agreement made with Mr. Vallette about repairing the canal than the one described as having occurred with Mr. Roots, at Mr. Vallette's house, and were not you and Mr. Roots there exclusively on that business?

Answer. I know of no other understanding with Mr. Vallette, except that which took place with Mr. Roots, on the evening spoken of. I was at the house of Vallette exclusively on that business, and understood the same to be the case with Mr. Roots.

Question 16. Did not Mr. Vallette at first refuse to do anything that you desired in that behalf, and have you not so stated in your previous affidavits used in this case?

Answer. Mr. Vallette refused having anything to do with taking the canal and repairing it, and I have so stated heretofore.

Question 17. Did he not at first refuse to waive his lien, and did he not give you the written dispatch referred to, agreeing to postpone his lien after some persuasions upon your part and that of Mr. Roots?

Answer. My recollection is that the proposition to waive his lien come from Mr. Vallette and not from Mr. Roots.

Question 18. Did you understand this dispatch was made as an agreement by Mr. Vallette?

Answer. I did.

Question 19. Was it made after a calculation upon the part of Mr. Vallette, or a conversation with him as to its being sufficient?

Answer. It was made after very considerable conversation and calculation by Vallette.

Question 20. Was the $1500 subscribed by C. W. West & Co. because they wanted to restore the water power to their mill and navigation to the canal?

Answer. That was one among many other considerations.

Question 21. Did you report the result of the interview and agreement that you made with Vallette to the Canal Company at the time or soon after?

Answer. It was telegraphed with a copy of Vallette's memorandum immediately upon leaving his house.

Question 22. Was that all the report you made to the Canal Company of the agreement made in their behalf with Henry Vallette, and did you consider yourself acting for the Canal Company on that occasion?

Answer. That was the substance of all the report made; did not consider ourselves capable of making any contract for the company, but called on Vallette at the request, as we understood, of the Canal Company.

Question 23. Was it not expected that the waiving of the interest due the following August would give the tolls to the Canal Company for twelve months, and did not Mr. Vallette state at that interview that the payment to him of $6000 annual interest should not interfere with the repairing of the canal; and was not that agreement at the time mutually considered sufficient for the purpose?

Answer. I understood Mr. Vallette to say at the time that this would be equal to a loan of $3000, and in his calculations as to the receipts of tolls he showed the ability of the canal to pay the repairs long before the maturity of his next coupons.

Question 24. Did not the repairs on the canal cost a great deal more than it was supposed they would cost at the time of that interview, and did it not take a much longer time to repair the canal than it was supposed at that time was necessary?

Answer. I understood the repairs of the canal to have greatly exceeded the amount supposed to be necessary at the time of this interview with Vallette, and required a much longer time to make the repairs than was then anticipated.

Question 25. Was there any agreement made between yourself and Mr. Vallette at the time of that interview that you should advance money to repair the canal, or that any other persons should advance money for the same? if so, name such persons.

Answer. There was no such agreement. The proposition to borrow money for the purpose of repairs from individuals upon the pledge of the tolls was freely talked of by Vallette and Roots.

Question 26. Did you not take an active part with Mr. Roots in what was said and done on the occasion of that interview?

Answer. I took part in the conversation, but not to the extent that Roots did. The conversation was principally carried on by Roots.

Question 27. Did you and Mr. Roots leave Vallette's house together, and did you go with Mr. Roots to the telegraph office when a copy of the written agreement you obtained from Vallette to waive his tolls was sent to the Canal Company?

Answer 27. We left Vallette's house together, and went from there to the telegraph office, when Mr. Roots sent off a copy of Vallette's memorandum heretofore referred to.

Question 28. Is the paper marked "*A*," and hereto attached, the original memorandum of agreement referred to?

Answer. It is the original, to the best of my knowledge and belief.

Question 29. Was it on the faith of this agreement that the loans you have referred to in your examination in chief were made by individuals to repair the canal? and if so, state how you know this to be so.

Answer. It was on the faith of this agreement spoken of, marked "*A*," and the conversation of Vallette heretofore referred to, that the subscription of C. W. West & Co. was made, and I understand the other subscription to have been made upon the same.

Question 30. Were you present when any of the other subscriptions were made to the loan to repair the canal? if so, state the time when they were made, and the names of the persons who were present.

Answer. I was present when some few of them were made, which was a short time after this conversation referred to. Cannot state particularly who were present, nor how many signatures were procured.

Question 31. State the names of any individuals who subscribed or loaned money to repair the canal when you were present.

Answer. I did not have charge of the subscription paper. My impression is that I was present when John Swasey & Co. originally signed or increased their subscriptions, Roots & Co., and also when James T. Hobart signed; but, not having charge of that paper or business particularly, I cannot name others.

Question 32. Do you say that you have no recollection of being present when names were signed to loan money to repair the canal except the ones you have referred to?

Answer. My recollection is that I was present when several others signed, but cannot name them particularly. I can give no more names particularly.

Question 33. State what representations were made, and by whom, in your presence, as to Mr. Vallette's waiving his lien in favor of those who loaned money to repair the canal, and whether the paper marked "*A*," containing Vallette's agreement to waive his lien for tolls, was shown to the parties when they made such subscriptions.

Answer. Not having charge of that business, I could not speak except in general terms. I do not know that the paper was ever shown to the parties who made such subscriptions.

Question 34. Who authorized, or were representations made by you, to contract loans to an indefinite amount in preference to Mr. Vallette's lien to repair the canal?

Answer. I contracted no loans; did no further business for the canal than to call on Mr. Vallette and report, as heretofore stated.

Question 35. You say that the subscription of $1500 by C. W. West & Co. was made to repair the canal in consequence of the agreement of Vallette marked "*A*," and the conversation alluded to, was it not to restore water power to your mill and speedy navigation to the canal that induced the firm of C. W. West & Co. to loan $1500 to the Canal Company?

Answer. The subscription would not have been made had it not been for memorandum "*A*" and said conversation heretofore referred, and I understand that such was the case with the other subscriptions.

Question 36. How can you understand that such representations were made as referred to in your last answer, when you say previously that Vallette's agreement, marked "A," was never to your knowledge shown to any individual who loaned money to repair the canal?

Answer. From general conversation among the friends of the canal, and the parties making the subscription.

Question 37. Is it from hearsay that you get this information?

Answer. It depends upon what you call hearsay. The substance of the agreement and memorandum marked "A" was frequently spoken of by myself, Roots, and those making subscriptions, in the presence of those who did subscribe, and many who did not.

Question 38. Why did you not show paper marked "A" to those of whom you solicited subscriptions to repair the canal, and was it not that you had an interest in having the canal repaired yourself, and made representations more favorable than the paper marked "A" would exactly authorize?

Answer. I did not solicit subscriptions for the canal particularly; had not possession of the paper marked "A"—made no representations not warranted by the paper marked "A" and the conversation of Vallette, heretofore referred to, and heard none made to the best of my knowledge and belief.

JOS. TORRENCE.

(Memorandum, marked Exhibit "A.")

I decline having anything to do with the canal. I will extend the next August interest six months.

Jan'y 14*th*, 1853. H. VALLETTE.

Exhibit "A."

A. H. POWERS, *Notary.*

G. Y. Roots, of the City of Cincinnati, of lawful age, being also produced on behalf of defendant, and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says:—

Examined by Deft's Counsel.

Question 1. State your name, place of residence, and business.

Answer. G. Y. Roots; residence, city of Cincinnati; business, commission merchant, of the firm of Roots & Coe.

Question 2. State if you have any knowledge of the damage done to the White Water Valley Canal by the floods of the year 1852, and the means resorted to by the White Water Valley Canal Company to raise money to repair that damage, as connected with Henry Vallette.

Answer. I know that the White Water Valley Canal was injured by the flood of 1852, from personal observation, and from the reports of those upon whom I could rely. The means resorted to to repair the damages to the canal was a loan from individuals, to reimburse which the White Water Valley Canal Company pledged the tolls and water rents that might be first received after the canal was repaired. In January, 1853, I received a despatch from Connersville, where the White Water Valley Canal Company Board of Directors were in session at that time, requesting me to call upon Mr. Vallette, and ascertain if he would take the canal and repair it, and reimburse himself from the revenues of the same. I did call upon Mr. Vallette on the evening of the 14th of January, 1853, and after some conversation with him upon the subject, I obtained a memorandum of an agreement from him, of which the original is attached to Mr. Joseph Torrence's deposition in this case, and marked "A." A copy of this agreement I sent by telegraph to Connersville the same evening that I received it. The original agreement received from Mr. Vallette I kept in my possession until I delivered it to Mr. N. C. McLean.

Question 3. State the balance of the conversation which you had with Henry Vallette at that time in reference to obtaining means to repair the canal.

Answer. As nearly as I can now remember, Mr. Vallette expressed a willingness to aid in the repair of the canal by deferring payment of the interest due on his bonds in August, 1853, six months, and intimated that he would postpone the payment of the interest a longer period if it was found necessary. It was his opinion, as expressed at the time, that the postponement six months would be a sufficient length of time to enable the Canal Company to refund the money that they might borrow to repair the canal. The difficulty in raising the money necessary to repair the canal was freely talked over between Mr. Vallette, Mr. Joseph Torrence and myself at that time. It was stated to Mr. Vallette that the Canal Company would not borrow the money necessary to repair the canal unless he would waive his lien upon the revenues of the canal. This he agreed to do in the memorandum of agreement in writing before referred to. At the same time he declined to have anything to do with repairing the canal.

Question 4. Was anything further said by Mr. Vallette at that time in reference to a further extension of the time for the payment of the interest upon his bonds, if the time mentioned in the written memorandum marked "A," to which you have referred, should not prove sufficient, to repay the money borrowed for making these repairs?

Answer. This matter was referred to in our conversation, and to the best of my recollection, as I before stated, he intimated that he would postpone the payment of the interest on his bonds a longer period than six months if it was found necessary, but did not make any positive pledges to that effect.

Question 5. Have you any knowledge of any subscriptions of money which were made by individuals for the purpose of repairing the canal at this time upon the faith of this agreement and understanding of Mr. Vallette? and if so, state their names, and the amounts subscribed.

Answer. The firm of Roots & Coe subscribed and paid $3,000, upon the faith of this agreement of Mr. Vallette, before referred to. It was my understanding that the other subscriptions and loans were made with the same understanding on their part. From conversation with C. W. West & Co., who subscribed $1,509, and with John Swasey & Co., who subscribed $3,000, I have understood that their subscriptions were made upon the faith of the agreement before referred to with Mr. Vallette. As I was not appointed to solicit subscriptions, I do not know positively what representations were made to other subscribers.

Question 6. How much of the money thus subscribed by you has been repaid to you by the White Water Valley Canal Company, and by whom was that payment made?

Answer. Roots & Co. have received $600 only on that subscription. I think they received it through C. W. West & Co.

Question 7. Was there any statement, in the paper to which you subscribed the amount of money which you have spoken of, of the terms and conditions on which you were to be repaid?

Answer. There was, but the precise terms I cannot now remember.

(Question and answer objected to by plaintiff, as calling for information not connected with plaintiff's case.)

Cross-examination by Plaintiff.

Question 1. Is the paper marked "A," in the words following, to wit, "I decline having anything to do with the canal. I will extend the next August interest six months. January 14th, 1853. H. Vallette,"—a true copy of Vallette's original agreement to waive his lien, which you have referred to? Look at the paper and answer.

Answer. It is.

Question 2. Did you call on Mr. Vallette immediately after obtaining a dispatch from the Canal Company requesting you to do so, in reference to negotiations with him to waive his lien?

Answer. I called upon Mr. Vallette the evening of the day that I received the dispatch from Connersville.

Question 3. Did you consider yourself as acting entirely for the Canal Company as their agent in the interview you had with Mr. Vallette, when this memorandum of agreement was given to you by Vallette?

Answer. I considered that I was acting for the Canal Company.

Question 4. State whether you or Mr. Torrence sent a copy of the despatch or agreement to the Canal Company in Connersville, after the conversation with Mr. Vallette; and if you sent anything more than the copy of this agreement of Vallette's to the Canal Company as an appendage or a part of said agreement, state what it was.

Answer. I accompanied Mr. Torrence to the Telegraph office immediately after our interview with Mr. Vallette. To the best of my recollection I sent a copy of the written agreement obtained from Mr. Vallette by telegraph to Connersville; but whether I added anything to the despatch more than the written agreement I do not now remember. Mr. Torrence, I think, sent a dispatch at the same time to Connersville, relative to the result of our interview with Mr. Vallette.

Question. 5. What were the contents of Mr. Torrence's despatch, and to whom in Connersville was it sent?

Answer. I do not remember.

Question 6. What Telegraph office in the city did you go to, or by what telegraph line were those despatches sent?

Answer. The despatches were given to one of the Telegraph offices located in Third Street, between Main and Sycamore, in this city, but which office I do not now remember.

Question 7. Did you and Mr. Torrence come to the house of Mr. Vallette together, or did you meet there by agreement on the occasion referred to?

Answer. Mr. Torrence and myself met at Mr. Vallette's house on the evening referred to, but did not go in company with each other, nor meet there by agreement.

Question 8. In your answer to question 2d, in your examination in chief, you state that the Canal Company made a loan to repair the damages to the canal, for the payment of which they pledged the tolls and water rents that might first be received after the canal was repaired. State from whom you get this information, or how you know this fact.

Answer. I obtained that information from the Secretary of the Canal Company.

Question 9. Do you transact business on the basin of the White Water Canal? if so, state how long you have been doing business there.

Answer. The firm of Roots & Co., of which I am a member, have been engaged in business, on the White Water Canal basin, since the spring of 1849.

Question 10. State if you had not made large advances to persons along the line of that canal, and whether you were not deeply interested in having the canal speedily repaired at the time it broke.

Answer. We had made advances to a considerable amount to persons along the line of the canal, and were on that account interested in having the canal repaired.

Question 11. Is not the navigation of the canal intimately connected with your business?

Answer. It is to a considerable extent.

Question 12. You speak of Mr. Swasey and others having made advances to repair the canal—was Mr. Vallette present when such advances were agreed to be made—and if so, state what representations were made to parties making such advances?

Answer. I cannot say whether Mr. Vallette was present or not when such advances were made.

Question 13. State if you were present when advances were made by individuals, and if so, state what representations were made to them about Mr. Vallette's waiving his lien upon the canal?

Answer. I do not remember that I was present when any subscriptions were made other than that made by Roots & Co. As before said I was not appointed to solicit subscriptions.

Question 14. In your answer to question 4 in your examination in chief, you state that Mr. Vallette intimated that he would postpone the payment of the interest on his bonds a longer period than six months if it was found necessary, but did not make any positive pledges to that effect. State if Mr. Vallette did not say in those intimations he gave in that conversation, that it must depend entirely on circumstances and his own views of the propriety of giving a further extension to the canal company, in the waiving of his lien for tolls in favor of those who loaned money to make repairs.

Answer. I do not remember that Mr. Vallette used the language contained in this question, but to the best of my recollection now, Mr. Vallette intimated in that conversation that should it be necessary to extend the time for the payment of interest on the bonds which he held, a longer period than the six months from August, 1853, to enable the canal company to return any moneys that the company might borrow to repair the canal, he would give a further extension.

In this conversation Mr. Vallete did not make any positive pledges to this effect, because, as I understood him, the time that he had agreed to postpone the interest on his bonds would be sufficient to enable the company to refund the loan they then contemplated making.

Question 15. Was the further extension that Mr. Vallette said he would make if necessary, to be as a matter of subsequent negotiation with the company?

Answer. As before stated, Mr. Vallette made no pledges to waive

his lien upon the revenues of the canal longer than the six months during that interview.

Question 16. Did not the expenses of repairing the canal prove to be much greater than it was supposed they would be at that interview.

Answer. I think they did.

Question 17. State if you know of any subsequent solicitations made by the canal company to Vallette to waive his lien on the tolls of the canal while it was being repaired, if so, state when.

Answer. I do not know what agreements, or understanding, or solicitations there may have been between Mr. Vallette and the canal company subsequent to that time, I have no knowledge upon the subject.

Question 18. Was not Mr. Swasey a large holder of pork in Connersville when the canal was damaged in December, 1852, and was not Swasey interested in having said canal repaired in order to get his pork down to Cincinnati, and is not C. W. West a director in said canal company?

Answer. I have been informed by Mr. Swasey himself, that he did hold a large amount of the product of the hog at Connersville at the time the canal was damaged by flood, and that he was compelled to have the whole or nearly all of it brought to the city by other conveyances than the canal at a heavy extra expense, in consequence of the canal not being repaired soon enough to enable him to get it to market. Mr. West has been and I think is now a director in said company.

G. Y. ROOTS.

1st. Where do you reside?

Ans. In Fayette County, State of Indiana.

2. How long have you resided there, and what has been, and now is your business?

Ans. I have lived there for the last forty-one years; have been engaged in farming all that time; it has been my principal business.

3. What connection did you have in the original organization of the White Water Valley Canal Company?

Ans. I was appointed by the legislature of the State of Indiana, one of the original corporators, as will be seen by Section 1st of the original charter of said company.

4. State what part, if any, you took in procuring subscriptions of stock, or otherwise to said company.

Ans. I subscribed some fifteen shares of stock myself, and earnestly solicited others to take stock. I now have some thirty-five shares of said stock; the way I come to get the larger part of it was thus: I would solicit persons to take stock, and tell them if they would subscribe, and afterwards become dissatisfied with the stock, I would take it of them, and did do so.

5. State what you know about the satisfaction or dissatisfaction

expressed by the stockholders of said company in relation to the contract with Henry Vallette, and about the time thereof.

Ans. With the exception of the Board of Directors of said company, the stockholders were generally dissatisfied with the arrangement; this was in the fall of 1844.

6. State whether you conversed with many of the stockholders of said company upon that subject, and what led you to do so.

Ans. I did converse with many of them, that was the principal topic of conversation at that time among those interested; the reason was, that the stockholders thought that the price the Board of Directors had agreed to pay H. Vallette was thought to be very extravagant.

7. Monday, December 10th, 1855. The further taking of this deposition is adjourned until to-morrow morning at 8 o'clock A. M.

Tuesday morning, 10 o'clock A. M., December 11th, 1855. Said George Davis appeared, and the further taking of his deposition was commenced, which is as follows, to wit:—

7. State what was your understanding, if any you had, of the character of the transaction of said company with Vallette, and from whom, if you remember, you obtained such understanding.

Ans. I understood that the company had succeeded in obtaining money to complete the canal from Henry Vallette. This I understood from Meredith Helm.

8. How did the conversation arise between you and Meredith Helm, and what led to it, or brought it about?

Ans. It was on account of the great interest I felt in the completion of the canal, and he being the president of the company, I applied to him for information.

9. State whether you had been acquainted with the previous condition of the company, and the efforts of the company to raise money to complete said canal.

Ans. I was as familiar with the affairs of the company as any stockholder outside of the Board of Directors. The company at that time was short of means, their paper was depreciated considerably. I know nothing of the efforts of the company to raise money, except from the information of others.

10. State how you have heard H. Vallette express himself in relation to his bonds, and on what occasion, and when it was.

Ans. I have heard him express himself frequently, that he had loaned the company his money, and that he had a preference over all other debts; this I have repeatedly heard him say in the office of said canal company, in Connersville, Indiana. After the breach in the canal of 1847, the company succeeded in borrowing money to repair the same; after the canal was in navigable order the company wished to repay the money they had borrowed. Mr. H. Vallette objected to paying it in preference to his interest, claiming that he had the preference.

11. State what you have heard Henry Vallette say at other times, when other breaks have occurred on the canal, and the company have been obliged to obtain funds by loan to repair the same, after the repairs were completed, and Vallette was desiring to be paid in preference to the other creditors.

Ans. I have heard him at other times express himself as stated by me in my answer to the 10th question. When the breaks in the canal would occur, Vallette would intimate that he would wait for his interest on his bonds until the money was paid to those who might loan money for repairing said canal; as soon, however, as the canal was repaired, and in navigable order, he would insist upon his interest being paid; saying that his interest due on the bonds had the preference to all other debts, his reason for saying he had the preference over others, was that he had the first lien, or mortgage.

12. State how he would at such times speak of his bonds or indebtedness of said Company to him.

Ans. He would speak of it as a loan, and sometimes as money furnished by him to complete the canal.

13. When did you first become a Director, and how long have you continued to be such of said Canal Company?

Ans. I was first appointed by the Board a Director in March, 1846, and have continued on the Board as a Director up to the present time, and am still a Director.

Now, at this time, to wit, Dec. 11th, 1855, at 3 o'clock P. M., Henry Vallette appeared, and proceeded to cross-examine the witness, George Davis.

Cross-examination.

1st. You state that the stockholders of the Company were generally dissatisfied with the contract made with Henry Vallette. How do you know this fact?

Ans. By conversing with the people upon the subject, with the stockholders.

2. What stockholders, how many, and give their names that you conversed.

Ans. Abraham B. Conwell, George Fayberger, Hezekiah Mount, Jasper N. Davis, T. L. Davis, William Alexander. I heard none advocating the matter except the Board; all complained of it.

3d. Is George Fayberger deceased?

Ans. He is.

4. Is A. B. Conwell the person named in your answer to the 2d question above, the same man who is now acting President of the White Water Canal Company?

Ans. Yes, the same.

5. Is Jasper N. Davis and T. J. Davis, and William Alexander relations, if so, what do they bear to you?

Ans. The two Davises are my brothers, and Alexander is my *my* cousin.

5. Do you not know that A. B. Conwell and George Fayberger were regarded as leaders of an opposition, or leaders of a minority of stockholders that generally opposed the acts of the Board of Directors of the White Water Valley Canal Company at the time made the contract with Vallette to finish said canal? (Objected to by def't's counsel.)

Ans. I know they were opposed to the act, but don't know that they were regarded as leaders of an opposition, or leaders of a minority of stockholders that generally opposed the acts of the Board.

6. Were not the Directors that made the contract with Mr. Vallette to furnish the canal, with the exception of one or two persons, re-elected as Directors by the stockholders of the Company, at the subsequent election after said contract was made?

Ans. I think they were.

7. Are you acquainted with Meredith Helm of this town, and how long have you been acquainted with him?

Ans. I am acquainted with him, and have been acquainted with him some 35 or 40 years.

8. What is the character of M. Helm for honesty, honor and veracity?

Ans. It stands fair.

9. Is there any man who stands fairer in those respects, within your acquaintance in community? (Pl't'ff objects.)

Ans. I don't know that there is.

10. Would you doubt any statement made under oath by Mr. Helm?

Ans. I don't know that I would; as a general thing, I would place confidence in Mr. Helm's statements under oath.

11. You state that you had heard Mr. Vallette state that he had loaned the Company money. Did not Mr. Vallette make a contract with said Canal Company to complete their canal, and to take his pay in bonds?

Ans. I heard Mr. Vallette say he had loaned the Company money. I believe he made a contract with the Company to furnish the canal, and took his pay in the bonds of the Company.

12. When you heard Mr. Vallette say that he had loaned the Company money, did you not understand Mr. Vallette as meaning to say that he had purchased the bonds of the Company issued as on a loan, and paid for the same with labor and materials furnished to the Company for the purpose of finishing their canal? (Objected to by def'ts.)

Ans. When this language was used, the money furnished was to complete the canal; the conversation took place after the canal was finished. I so understood Mr. Vallette as meaning as stated in said question.

13. After the break occurred in the canal in the year 1847, you state that the Company borrowed money to repair the same. Did

not Mr. Vallette claim the payment of his interest due him on the bonds of the Company in August, 1847, before the canal was repaired, and did he not commence a suit in September, 1847, in Chambers, before Judge McLean for said interest, and obtain an injunction against the Company, and a receiver for the payment of interest due on the bonds of the Company to him as aforesaid? (Objected to by def'ts.)

Ans. I do not recollect that he claimed the interest due him on his bonds in August, 1847, before the canal was repaired. He commenced such a suit before Judge McLean, and obtained an injunction; but cannot recollect whether a receiver was appointed or not.

13. Was not the Secretary of the Canal Company appointed by the Court, in the suit brought by Vallette, to receive and pay over to Vallette part of the tolls of the company until the arrearages of the interest on his bonds was paid up? I refer to the suit before Judge McLean.

Ans. I think he was.

14. You say that Vallette, whenever breaks occurred in the canal, would intimate that he would wait on the company until the money was paid to those who loaned money to repair the canal. State what breaks in the canal you refer to, and the time such breaks took place.

Ans. It was subsequent to the large break in the canal in January, 1847.

15. State what breaks you refer to in your last answer, and the time they occurred.

Ans. I think all of them, there may be some exceptions; one of the breaks was in November, 1847, one in the spring of 1849, and one in the winter of 1852.

16. Did Mr. Vallette agree with the company, by conversation or in writing, to waive his lien in favor of those who furnished the company money to repair the canal after the break by the flood in the winter of 1852?

Ans. I can't say that he did.

17. Do you not know that when he was applied to by the Board of Directors to waive his lien on that occasion, that he replied by mail or telegraph, that he would do nothing more than extend the interest due in August then next ensuing? (Objected to by def't.)

Ans. I don't know how the news came, but there was an understanding that he extended the payment of the interest due in August, to the next February ensuing.

18. Was that all that Mr. Vallette agreed to do at that time, in the way of waiving his lien, as you understood?

Ans. I don't recollect any more; think it was all.

20. You say that in November, 1847, there was a freshet that damaged the canal, also another in 1849, did not Mr. Vallette have all injunction on the canal at the time those freshets occurred? (Objected to by def't.)

Ans. Yes, he had.

19. Did the company apply to Mr. Vallette to have the injunction removed while the canal was being repaired, after those freshets occurred ?

Ans. I don't recollect whether the company did or did not.

20. State whether the injunction and receiver referred to as granted by Judge McLean was not continued by Mr. Vallette on the company until all arrearages of interest due him on his bonds was paid. (Objected to by def't.)

Ans. I think it was.

21. Did the company owe Mr. Vallette any interest on bonds when the last flood occurred in the winter of 1852 ?

Ans. I don't think the company owed him any interest at that time.

22. Had not the company promptly paid the interest on their bonds to Mr. Vallette as it became due, for two years previous to the breaking of the canal in the winter of 1852, and on one occasion advanced him the interest before it became due ?

Ans. The company paid him promptly the interest for some time prior to the flood of 1852, and on one occasion the company advanced him the interest before it became due.

Tuesday evening, 5 o'clock P. M., December 11th, 1855. The further taking of this depositions is continued until to-morrow morning at 8 o'clock A. M.

Wednesday morning, 10 o'clock A. M., Dec. 12, 1852, parties met, Henry *Henry* Vallette present, and James A. Fay, Attorney for defendant, present, when the further taking of said deposition was continued as follows, to wit:—

23. Do you say that Mr. Vallette would only agree to extend the August interest after the flood broke the canal in the winter of 1852 ?

Ans. I don't say that he would, but my understanding was that Mr. Vallette would extend the August interest until February following.

24. Did you understand Vallette as offering at any time in reference to the flood of 1852, to do more than you have stated in your last answer in behalf of the canal ? (Objected to by def't.)

Ans. I don't recollect that he did.

25. Did Mr. Vallette perform his agreement with the company to extend the August interest after the break in the canal of 1852 ?

Ans. He did.

26. If Mr. Vallette never made promises to the Board of Directors to waive his lien until after the flood of January, 1847, and had an injunction on the canal when the flood occurred in November, 1847, which injunction was continued when the flood occurred in 1849, until he was paid off, because he refused to remove the same until his demands was satisfied. And if Mr. Vallette performed his agreements with the company respecting the flood of 1852, state in what

particulars he failed to comply with agreements made with the company to waive his lien; be definite in your statement. (Objected to by def't.)

Ans. All the engagement the company made with Mr. Vallette, so far as I recollect when the company had him committed in writing, I believe he complied with. I understood from Mr. Vallette that in raising funds to repair the Laurel Aqueduct, that he would waive his claim until the repairs should be paid for, and that he did not comply with that understanding.

27. How did you understand that thing from Mr. Vallette?

Ans. I think I understood it from Mr. Vallette's declaration in the canal office.

28. Did not the company levy a specific duty *duty* or specific toll on goods that passed above Laurel to Cincinnati, to be applied in building the Laurel Aqueduct, while Mr. Vallette's injunction was on the canal?

Ans. The company levied a specific duty for the purpose of raising means to assist in building the Laurel Aqueduct.

29. Do not the records of the company show that for a part of the time that specific duty was collected, Mr. Vallette received no part of said duty? (Objected to by def't.)

Ans. I think they do. I have just been looking to the records, and refer to them for my answer to this question.

30. Were not all contracts made by the company with said Vallette, that were expected to be binding upon the company, reduced to writing? And if contracts were made as aforesaid that were not reduced to writing, please specify the same. (Objected to by def't.)

Ans. As far as I know they were.

Re-examination.

1. Was the sum raised by specific toll to assist in rebuilding the Laurel aqueduct sufficient for that purpose, and on them now claims for labor and materials in rebuilding said aqueduct unpaid and due from the company?

Ans. The sum raised by the specific toll was not sufficient for that purpose. The aqueduct cost something over $22,000, and the amount raised by said specific toll was something over $14,000. There is to the amount of upwards of $2,000.

2. Have you understood in the suit, referred to on cross-examination before Judge McLain, by Vallette *vs.* The Canal Company, in which an injunction was granted, that Vallette stated under oath in his bill that the Canal Company created a loan by virtue of the 18th section of the charter, and under which his said bonds were issued to him? (Objected to by Vallette for the reason that said bill is on file in the Circuit Court of the United States, at Indianapolis; and further, that the question is to obtain hearsay testimony.)

Ans. I have so understood it.

3. In reference to question No. 12, cross-examination, did Vallette

speak of his transaction with the Canal Company as a loan made by him to the company to complete the *the* canal, and on that ground claim a preference over other creditors by virtue of his bonds issued thereon? (Objected to by pl't'ff because the witness has already stated it was the purchase of the bonds of the company as a loan, and paid for in labor and materials.)

Ans. Yes he did.

In reference to question No. 17, in cross-examination, do you wish to be understood as saying that you have any personal knowledge what agreement Vallette made in December, 1852, after the break, in relation to waiving his lien in favor of those who should loan the company money, to make repairs, or contractors who should take contracts to make said repairs on the canal?

Ans. I do not wish to be so understood; had no personal knowledge from Vallette.

5. Did the board notify Mr. Vallette, in December, 1852, after the break in the canal, that he might take the canal and repair it, and hold it until repaid; and that if he declined to do so, the *the* company would obtain the money by loan, and make repairs, and pledge the tolls and receipts of the canal for the payment thereof; and did the company thus proceed to obtain money and make the repairs on the canal and pledge the tolls and receipts, and was Mr. Vallette aware the company were so doing, and did he ever object to the course of the company in making said repairs, and pledging the tolls and receipts therefor. (Objected to by pl'tiff as irrelevant.)

Ans. I don't recollect that the company, after the break in 1852, December, notified Vallette that he might take the canal and repair it, and hold it until he was repaid. The company did proceed to borrow money to repair the canal, and did pledge the tolls and receipts of the canal for the payment of the money thus borrowed; don't know whether Vallette was aware of this or not, nor don't know whether he objected or not.

6th. Do you remember all the stockholders, at this time, that you heard express themselves in the fall of 1844, as dissatisfied with the arrangement the Company had made with Vallette?

Ans. That would be impossible, I do not; it was common talk.

7. Do you remember that, at the election for directors, in January, 1845, that Judge Mount was left off of the ticket by the other directors themselves, and that it was owing to the course of these directors that he was not re-elected.

Ans. Judge Mount was left off the board in January, 1845, but for what reason or by what influences I do not know of my own knowledge.

8. Have you any personal knowledge of the agreement made by Vallette with individuals in Cincinnati, in December, 1852, in relation to waiving his lien in favor of those who should loan the company money to repair the canal, and in favor of the contractors who should or might take contracts thereon, and do you wish to be under-

stood, in your previous testimony, as having testified from any such knowledge in relation to any such agreements made by him with individuals in Cincinnati. (Objected to by plaintiffs—1st. Because the agreement referred to are the best evidence, and should be produced. 2d. And because the balance of the question assumes that the witness has testified to matters which are not contained in this deposition.)

Ans. I have no personal knowledge of such agreements, and I do not wish to be understood as having testified from my own personal knowledge in relation to any such agreements made by him with individuals in Cincinnati.

GEORGE DAVIS.

Dec. 12, 1855. The further taking of these depositions is continued until to-morrow morning at 8 o'clock A. M. Dec. 13th, 1855, 3 o'clock P. M., Jas. A. Fay, Attorney for the W. W. Valley Canal Company, and Henry Vallette, in person appeared, and the further taking of their depositions was resumed.

Sherman Schofield, of lawful age being first duly sworn according to law, testified as follows, to wit:—

1st. Where do you reside?

Ans. In Fayette County, adjoining the town of Connersville.

2d. How long has this been your place of residence?

Ans. Since the year 1827.

3. State whether you were among the original subscribers to the stock of the White Water Valley Canal Company.

Ans. I was.

4. State what conversation, if any, you had with Meredith Helm in the store of A. J. Claypool & Co., in June last, in relation to the bonds issued by the Canal Company to Henry Vallette, and in what relation to the character of the transaction in which said bonds were issued.

Ans. Mr. Newton Claypool, Meredith Helm, and myself were conversing about this case; during the course of the conversation, Mr. Helm stated that "it was both a loan and a contract;" he was speaking of the means obtained from Vallette to finish the canal. There was something said by Mr. Helm about the loan being authorized by the 18th section of the charter of the company. He also said something about the only authority for issuing said bonds being contained in the 18th section of said charter.

5th. State what you understand to be the character of the contract between Vallette and the Canal Company, at or about the time it was entered into in 1844. (Objected to by pl'tiff, because it does not call for any personal knowledge of the matter asked for, but for rumors.)

Ans. I understood that they had made sufficient arrangement with Vallette to furnish the canal. It was the general out-door impression that the company had made a loan of Vallette; of my own personal knowledge I know nothing about it; everybody called it a loan.

6. State whether you are a director, and how long you have been on the board as a director.

Ans. I am a director, and have been for some fifteen months past.

Cross-examination.

1. How long have you been acquainted with Meredith Helm?

Ans. Twenty-eight years.

2. What bank is Meredith Helm President of at this time, in this place?

Ans. He is President of the Fayette County Bank.

3. How long has he been President of that bank?

Ans. Ever since it was organized.

4. Is he not also President of the branch of the new State Bank of Indiana, located at this place?

Ans. Yes, he is.

5. When was he elected President of the Branch Bank?

Ans. Within the last six weeks or two months.

6. Is that bank about going into operation under its charter granted last winter?

I presume it will go into operation next winter—it is now merely organized.

7. What is the character of Mr. Helm in this community for honor, veracity, and intelligence? (Objected to by def't, because it is not in proper form.)

Ans. It is very good.

8. Is not Mr. Helm's character regarded as unimpeachable as *a* man of truth and honor? (Objected to by def't on account of the form of the question.)

Ans. It has been so regarded by me.

9. Would you have full confidence in the statements of Mr. Helm, made under oath as to facts of which he had knowledge and belief? (Objected to by def't.)

So far as his memory serves him, I would.

10. Would you have confidence in Mr. Helm's statements under oath when he stated that he was testifying to facts of his own knowledge? (Objected to by def't.)

Ans. I would have as much confidence in him as any other man I know of.

11. When you say that the contract between Vallette and the canal company, the matter of this suit was spoken of by the community generally as a loan, do you mean it was so spoken of at the time it was made?

Ans. I mean that was the rumor about the time the loan was made.

12. Can you give the names of individuals who so spoke of the matter at that time? if no, please give some of their names.

Ans. George Fryberger, Abraham B. Conwell, both *cursed* it as being a bad arrangement for the company; about that time I heard

several others speaking of it as a loan, but don't recollect their names.

13. Is George Fayberger deceased, and is Abraham B. Conwell the present president of the company?

Ans. Yes, it is so.

14. Was A. B. Conwell a candidate for a director of that company, and not elected by the stockholders previous to the contract made with Vallette to finish the canal?

Ans. Not to my knowledge; I don't remember anything about that.

15. Did not A. B. Conwell generally oppose the operations of the Board of Directors in constructing the canal about the time they made the contract with Vallette, and previous thereto?

Ans. I heard him complain of some of their transaction about that time, and especially of the loan made of Vallette.

16. Did he not generally oppose their operations, or speak against their operations and management previous to their making the contract with Vallette?

Ans. I don't know whether he did or not.

17. If you do not know, have you not reason to believe, that Mr. Conwell spoke against the management of the Directors previous to making the contract with Vallette? (Objected to by def't.)

Ans. I had not much knowledge of the matters up to the time of the contract, and consequently have no reason for any such belief.

18. Have you not heard Mr. Conwell admit in conversation since the contract was made with Vallette, that he opposed the management of that Board? I do not ask you to speak with reference to their contract with Vallette, but with their management of other matters. (Objected to by deft.)

Ans. I don't know that I ever heard him make any such admissions.

19. Was your brother a sub-contractor under Vallette in constructing the canal between Connersville and Cambridge City?

Ans. My brother made an arrangement with Henry C. Moore to finish some work between Connersville and Cambridge City. I don't know whether he was a sub-contractor under Vallette or not.

20. Was that work performed for Vallette or for the White Water Valley Canal Company?

Ans. I don't know; I think Vallette paid for the work.

20. How do you know that your brother made an arrangement with H. C. Moore to do that work?

Ans. My brother told me so, and I often saw them conversing about it.

21. Have you not reason to believe, or do not believe that H. C. Moore sub-let the work in the canal for Henry Vallette between Connersville and Cambridge City? (Defendants object.)

Ans. I presume there was some such an arrangement.

Do you not believe that your brother signed a contract with

Henry Vallette, and was paid by him to do the work he performed on the canal between Connersville and Cambridge City? (Defendant objects.)

Ans. I have no knowledge or belief about the matter, yet I am satisfied that Vallette paid the money.

22. Were you then, and now are you, on good terms with your brother?

Ans. I was, and am.

Did you never have any conversation with your brother about that time about the job?—if so, why do you have no belief about it?

Ans. I had; my brother told me that he had a contract through H. C. Moore, on which he expected to make some $600, and he afterwards told me he made about that amount.

24. Did your brother never give you reason to believe that he made that contract with Vallette to do that work? (Objected to by def't.)

Ans. He did not; he might or might not have signed the contract with Vallette.

Re-examination.

1. State whether you are a director of the Fayette County Bank, and how long you have been such.

Ans. I am, and have been since the organization of the bank.

2. State whether you are a director of the Branch Bank of the New State Bank at this place that was lately organized.

Ans. I am.

SHERMAN SCOFIELD.

December 13th, 1855, 4 o'clock P. M. The further taking of this deposition is continued until to-morrow morning, 8 o'clock A. M.

December 14th, 1855, 10 o'clock A. M. Parties met; Jas. A. Fay, att'y for defendant, and Henry Vallette in person, present, when the further taking of this deposition was resumed. Wells E. Lawrence appeared and was sworn, and certified as follows:—

1. Where do you reside?

Ans. Connersville, Indiana.

2. How long has this been your place of residence.

Ans. Since 1842.

3. In what capacity have you been employed by the canal company?

Ans. I was employed in the engineer department from the organization of the company, in the year 1842, up to the completion of the canal, in 1846.

4. In what other capacity have you been employed by the company?

Ans. I have been the secretary of the company from May, 1852, up to the present time.

5. In what capacity was S. W. Parker employed by the company

from the organization up to the completion of the canal, as appears from the records and papers on file in the office of said company? (Objected to by pl'tiff, because the papers and records referred to are the best evidence, and should be produced.)

Ans. As that of attorney of the company.

6. State whether, as such, he filed amounts in the office of the company for services rendered as attorney of the company during said period.

Ans. He did.

7. Are you acquainted with S. W. Parker's handwriting?

Ans. I am.

8. State whether the papers you refer to are drawn up in his own handwriting.

Ans. They are.

9. State when the first account made out by him, as attorney of the company, was made out, as appears by the date of the account, and attach a copy of that account to your answer to this interrogatory. (Pl't'ff objected to, because pl'tiff asks for the account itself, the original papers.)

Ans. In March 1st, 1843. The writing hereto attached, marked A, is a copy of such account.

10. Please identify this copy by your signature.

Which is done, and marked A by the Notary, and attested by said Notary.

"A."

March 1st, 1843.

THE WHITE W. V. CANAL CO. Dr.

To Samuel W. Parker.

For professional, and divers other kind of services too tedious to mention, from the 16th Feb'y, 1842, up to this date. For devising and framing all the original Rules and Bye-Laws, and entries as to stock subscriptions. Devising and preparing the certificates of stock, big and little, and particularly the MODUS OPERANDI of getting up, getting out, and getting in, the latter. Framing and preparing divers forms and blanks for the Co. Several days spent with the Board, as their adviser; particularly during their early meetings. Examination of divers stock questions, written opinion as to the power of the Co. over old contracts; regular counsellor of the officers of the Co. during the vacations of the Board; procuring canal papers at Indianapolis; correspondence as to the same and the land questions at Lawrenceburgh. Some $5 00 cash paid for printing charters used in the service of the Co., sundry newspaper and other articles, here and elsewhere, to raise steam and keep boilers from bursting, &c. &c. &c. The value of all which services it is hard to estimate. But if they are worth anything, they are worth at least $75 00, the W. W. V. Canal Co. to Samuel Parker, Dr., General Retainer, as Att'y of the Co., from 1st March, 1843, to 1st Feb'y, 1844.

The following are some of the special services rendered between said dates: Form for land certificates; certificate of title to be made Hankins; examination and advice as to Updegraff's land case; much time spent with the Board at two panic sessions in May; time spent with Board at June session; trip to Harrison, Lawrenceburgh, and Wilmington, in June, to examine land titles, cases, &c.; advice as to Stevenson, toll collector; advice as to Tingley, adm'r of Ginn; two days spent with Board, advice, &c., at first term in July; one day with Board, second term in July; preparing order, form of bond, &c., for the loan proposed to be made.

Change of loan order; form for deed; plan for reissue of small certificates; plan of 2 payments per annum.

By-laws as to the officers; search for lost leases; search for evidence of condemned land; half day with board at Nov. Term; negotiations with P. James as to his land difficulty; money paid for postage, travelling expenses; self and Mr. Moore, not less than $15 00.

Frequent consultations by the officers of the company, and advice as to their duties.

Fees offered me *vs.* The Co., by Mr. Updegraff, Jushua Wallace, Puntney & Russell, &c. &c., lost to me; advice and aid rendered Mr. Moore in preparing by-laws for protection of the canal, and the collection of tolls, for all of which, I do not think I could put my charge at less than $200 00.

S. W. PARKER.

W. E. LAWRENCE.

"B."

Signed by W. E. Lawrence in my person.

B. F. CLAYPOOL,
Notary Public.

4. State the date the next account of S. W. Parker as appears from the date for services rendered as the attorney of the company, and attach a copy of the said account to your answer to this interrogatory, and identify it by your signature. (Pl'ff objects to the question, because the original of all papers are demanded that do not form part of the books or record of the company.)

Ans. Was Feb. 1st, 1844, and I identify it with my signature. Said copy is hereto attached and marked "B" by the Notary, and was signed by said Lawrence in the presence of said Notary.

12. State when the next account in order presented Mr. S. W. Parker, as attorney for services rendered to the company was dated, as appears by the account, and attach the original to your answer to this interrogatory, identifying it with your signature.

Ans. November 12th, 1844, identified me by signing my name thereto, and marked "C" by the Notary, and the signing by said Lawrence, is also attested by said Notary Public.

THE WHITE WATER VALLEY CANAL COMPANY,
To Samuel W. Parker, Dr.

For services as att'y of the company since last allowance up to this date, some seven months in all, $200 00.

Some of these services are as follows :—

Att'y of Co. in case of Puntney & Russell.
" " " Wade & Burns.

Trip to Harrison & Lawrenceburg, to close up the unsettled business with Davis at the former place, and Col. James at the latter, both closed.

Preparing papers, &c. for Rariden to make loan.

Form for domestic bonds, several days spent in the negotiations with Vallette.

Preparing bond to be issued to him.

Time spent with board ; advice, &c., at their several sessions.

Regular advice and services rendered the officers of the Co., &c. &c. &c.

The above charge is very low, even for payment in par funds.

S. W. PARKER.

Nov. 12, 1824.

En. 16 Nov. 1944.

Attest, B. F. CLAYPOOL,
Notary Public.

W. E. LAWRENCE.

13. State when the next account in order presented by S. W. Parker for services rendered as the attorney of the company appears to be made out, and attach the original of said account to your answer to this interrogatory, identifying it with your signature.

The third of March, 1845, and I identify it by signing my name "W. E. Lawrence."

Which signature is attested by the undersigned Notary Public, and the paper marked "D" by P. Notary.

THE WHITE WATER VALLEY CANAL CO.,
To Samuel W. Parker, Dr.

For services rendered the Co. from 1st March to 1st July, 1845.

Injunction case of Aaron White *vs.* The Co., and Haslit, a contractor, Fee Wayne,	$30 00
Thos. Henderson's damage case, Circuit and Supreme Court,	25 00
James Summous, do.,	25 00
David Mounts, do.,	25 00
Vandegrift & Williams' arbitration,	10 00
Wm. Brown's do.,	10 00
Dearborn Co., Chancery suit *vs.* P. James; The Co., Helm & Pepper,	25 00

Negotiation with Cincinnati Canal Company, as to water power,	50 00
Negotiations as to water power and lands for that purpose at home,	30 00
Professional counsel for Co., and its officers and retainers 4 mos.,	100 00
The Canal paper,	$330 00

Attest, B. F. CLAYPOOL,
N. P.

W. E. LAWRENCE.

THE WHITE WATER VALLEY CANAL CO.,
To Sam'l W. Parker, Dr.

Att'y fees since 12th Nov. last.

Examination of first appraisement of damages; setting them aside preparation of proper forms for levy books of appraisement, and other preparation.

Two days spent with board at their last organization.

One week spent with board, and attending damage trials at Laurel and Brookville, first week in Feb'y.

Examination of the Cincinnati Canal Co.'s claim for water power on their canal.

Almost daily counsel and advice with officers of the company; tavern bills, postage, &c. &c., to this date, 3d March, 1845, $150 00.

S. W. PARKER.

W. E. LAWRENCE.

15. State when the next account in order presented by Mr. S. W. Parker, for services rendered by him as attorney of the company is dated, as appears by said account, and attach the original account to your answer to this interrogatory, identifying it with your signature.

Ans. July 1st, 1845, and I identify it by signing my name thus, "W. E. Lawrence." Said paper was signed W. E. Lawrence in my presence, and is attested by me and by me marked, "E," B. F. Claypool, N. P.

16. State when the next account in order presented by S. W. Parker, for services as attorney of the company is dated, as appears from said account, and attach the original account to your answer to this interrogatory, identifying it with your signature.

Ans. November 3d, 1845, and is identified thus, "W. E. Lawrence."

(Which identification was attested by the undersigned notary, and by him marked F, B. F. Claypool, Notary Public.

17. State when the next account in order for services rendered as attorney of the company was presented and allowed, and furnish a copy of the rec't of the allowance, and state whether you find the original of the accounts.

(Objected to by plaintiff.)

February 3d, 1846, and the copy is attested by me as the secretary of the company, with the company seal thereto annexed.

Said copy is marked G, by the undersigned Notary Public.

At a meeting of the Board of Directors of the White Water Canal Company, held on Tuesday, 3d day of Feb'y, 1846, among other things it was

Ordered, That Samuel W. Parker be and hereby is allowed the sum of one thousand dollars for his services as president and attorney of the company for the current year—

Ordered, That S. W. Parker be and is hereby allowed a credit on his stock account of one hundred dollars for his services as attorney of the company during the months of November and December last.

Also at a meeting held 5 Jan'y, 1848, it was ordered by the board, That Samuel W. Parker be allowed five hundred dollars for his services as attorney of the company for the year 1847.

I certify that the above orders are true copies of the record in my office. Attest, W. E. LAWRENCE,
Sec'y.

THE WHITE WATER VALLEY CANAL CO.,
To Samuel W. Parker, Dr.

For services rendered as Att'y of the Co. from 1st July to 1st Nov'r, 1845.

Aid to Sec'y in getting out his rep.		$5 00
Scofield damage case, arbitration, and in Circuit Court		15 00
Trip to Centreville, Conwell's Enjunc.		15 00
Two days with board, Aug. ses.		10 00
Rectifying Jas. Conwell, same Conveyance		5 00
Two days exam'ing records and surveying hydraulic land		5 00
Trip to Laurel, and hydraulic arrangement with Shoup & Conwell		15 00
Hankins *vs.* Lawrence, Circuit Court		25 00
One day with board, Oct. ses.		5 00
Reissue of costs		5 00
Ans. to Craft's amended bill, Dearborn C. Court		10 00
Comegy's water rent adjudged		5 00
Collected of Eli Davis	$154	
" Ben. Conklin	262	
" Wm. Conwell	283	20 00
Jud't in Wayne *vs.* Edgerton		7 00
4 mos. counsel and advice for Co. and officers as att'y		100 00
		$247 00

S. W. PARKER.

Nov. 3d, 1845.

Attests, B. F. CLAYPOOL,
N. P.

W. E. LAWRENCE.

State what account was paid S. W. Parker as attorney of the company from its organizations up to the completion of the canal, as appears by the account and records of the company up to Jan'y 1st, 1856.

Ans. $1302 00.

19. State what amount the company is indebted to S. W. Parker, or were indebted to him last September, 1855.

Ans. I cannot at present answer this question.

20. State whether S. W. Parker brought suit against the Canal Company for service as attorney rendered the company, and for what amount, if you know, and in what manner he collected the same.

Ans. He brought suit against the company for balance due him for fees among other things, and obtained a judgment, then took a transcript of said judgment to Morgan County, and collected the money by sale of the company's property in said county.

21. State whether Mr. S. W. Parker was the attorney of Null & Null in the case of Null & Null *vs.* The W. Water Valley Canal Company, which suit was brought in the Fayette Circuit Court, what said suit was for, and what was the amount of damages claimed.

Ans. He was the attorney of Null & Null in said suit; said suit was for damages to their mill seat by the construction of the canal; the damages were laid at $10,000.

22. State whether a break occurred in the canal in December, 1852; if so, what was the extent of it, and what did it cost to repair the canal?

Ans. A break did occur on the 24th December, 1852. It was a very disastrous break, and cost about $115,000 to repair the same.

23. State whether you passed along the line of the canal after the break, and for what purpose.

Ans. I did, and for the purpose of estimating the extent of the damage and the cost of repairing it.

24. State what proposition, if any, was made to Mr. Vallette by the President and Board of Directors in reference to said break, and the repair thereof.

Ans. The Board of Directors proposed to Vallette to take the canal, repair it, and *and* hold it and its revenues until he was fully reimbursed.

25. State in what manner the Board of Directors informed Mr. Vallette they would proceed to raise funds and repair the canal, should he decline to do it in the manner proposed by said Board.

Ans. By anticipating its future revenues.

26. Who at the time were the Directors, and who was the President of the Board?

Ans. Caleb Jackson, George Davis, A. B. Conwell, George G. Shoup, Martin L. Bundy, John S. Newman, John D. Jones, James Rariden, and George Fayberger. James Rariden was President of the Company.

27. State whether the said proposition the Board made to Vallette was accepted by him.

Ans. No, it was declined.

28. State whether the company proceeded to raise funds to repair the canal and employ contractors, pledging the tolls and receipts of the canal for the payment of the loan and the contractors, and furnish a copy of the order of the Board on this subject, and also copies of the subscriptions of different individuals for the repair of the canal, with the terms of said subscriptions.

Ans. They did so proceed to repair the canal immediately. The paper hereto attached and marked "H" is said order. The paper hereto attached, marked "I," is such copy of said subscription, the terms and names, with the amount subscribed, amounts since paid, and the balance now due on the same. And the paper marked "M," and hereto attached, is a copy of an order of said Board on said subject,

"I."

We, the undersigned, promise to pay to the W. W. V. Canal Co. the sums set opposite our names, for the purpose of putting said canal in repair, to be paid in cash, in instalments of thirty-three per cent., every thirty days, as the work may progress, the same to be repaid out of the first moneys arising out of the tolls and water rents from said canal, which are to be deposited monthly as they are collected with Mr. Richard Tyner, of Brookville, Indiana, as receiver, who is appointed by said Co. for said purpose, and to be by him repaid proportionably each month, together with 6 per cent. interest, and five per cent. bonus therefor.

Dated Cincinnati, O., Jany. 17*th*, 1853.

Names.	Amount subscribed.	Amount paid.	Balance paid.
Sherwood & Co.	100	20	80
Day & Matlack,	500	100	400
John Gates,	200	40	160
Comstock, Wilcox & Co.	500	100	400
Hunnewell, Hill & Co.	500	100	400
Tyler, Davidson & Co.	299	59	240
Carney, Swift & Co.	1000	200	800
Reeves & Stephens,	500	100	400
James McKee,	200	40	160
R. W. Booth & Co.	300	60	240
Huntington & Brooks,	200	40	160
H. Clearwater,	300	60	240
Ridgely & Bro's,	300	60	240
John Swasey & Co.	3000	600	2400
Trowbridge & Beatty,	500	100	400
Roots & Co.	3000	600	2400

Names.	Amount subscribed.	Amount paid.	Balance paid.
H. D. Chapman & Co.	500	100	400
Ingram & Co.	1000	200	800
Stadler & Bro's,	200	40	160
Jenkins & Co.	100	20	80
Conklin & Hubbard,	100	20	80
Abram Palmer,	100	20	80
Miller & Brown,	500	100	400
C. W. West & Co.	2000	400	1600
B. H. Burton,	100	100	
Geo. Holland & Co.	600		600
Watts & Colburn,	500	500	
Walker & Bro's,	2000	400	1600
P. H. & F. M. Roots,	300	300	
J. & W. Huston,	298	298	
W. F. Gebhart,	150	150	
Fayberger, Moore & Co.	506	506	
Citizens of Wayne Co.	660	560	100
J. G. Banes	250	50	200
Jno. Banes,	300	300	
Amount loaned,	$21,563		
Amount paid,		$6,343	
Balance due,			$15,220

At a meeting of the Board of Directors of the White Water Valley Canal Company, held on 14th day of January, 1853, it was ordered—

That there be a committee appointed, consisting of the President, Secretary, and George G. Shoup, who are hereby authorized, and whose duty it shall be to solicit and contract for loans to make the repairs to the canal, with power to appoint agents under them for the same purpose, and to put any or all the repairs under contract, first with a view to speedy navigation, and secondly to make permanent repairs, so as to make the canal safe against disasters, said committee, where all other things are equal, giving the preference to contractors who will contract to do any portion of the repairs, and look to the tolls and water rents, to come into the hands of the trustee pledged for that purpose, and such contractors are hereby placed on the same footing with those who may loan money to make repairs, to the amount of the repairs they make. The general superintendent to have the care and direction of the repairs as they may progress.

Attest, W. E. LAWRENCE,
Sec'y.

At a meeting of the Board of Directors of the White Water Valley Canal Co., held on 14th January, 1853, it was ordered—

That for the purpose of aiding and raising money for the repair of the canal, and securing the payment of the various sums that may be loaned the company, that a trustee be appointed to collect and receive from the various toll collectors on the line of the canal, all moneys received for tolls and water rents, except ten per cent., and pay the same over to the various persons *pro rata*, once a month, until the full amount loaned shall be reimbursed with interest and five per cent. bonus.

Statements of amount due contractors for repairs of the White Water Valley Canal, in 1853.

George Scott,	$493 35
James Lunpus,	266 65
Shoup, Cullum & Co.	1,825 25
Spencer Wiley,	300 00
Tyner & Roberts,	4,152 03
Richard Calvin,	2,000 00
John Miley,	814 87
	$9,852 15

29. State what amount is due to individuals for the repair of the canal in 1853, for money advanced to the Company for that purpose.

Ans. Fifteen thousand two hundred and twenty-eight dollars.

30. State whether that amount embraces the sum due to individuals who subscribed money for the repairs of the canal, and if so, furnish the list of the names of those individuals and the respective amounts.

Ans. It does; and the copy attached to the answer to the 28th question and marked "I," is a copy of said list.

31. State what amount is due contractors for work done in said repairs, if any, and furnish a list of the names, with the respective amounts due them.

Ans. About nine thousand eight hundred and fifty dollars. The paper hereto attached, marked "I," is such list.

32. State what amount is due to stockholders for money furnished to make said repairs, if anything, and furnish a list of the names, with the respective amounts due each.

Ans. The amount is thirty-two thousand five hundred and thirty-three and twenty-five cents—canal furnish the list for want of time, and is too much labor to make it out.

32½. State whether Mr. Vallette was aware the Company were proceeding to raise money to repair the canal, and to employ contractors to do the work, and pledging for the payment thereof the future revenues of the canal, and whether he at any time made objection to the course pursued by the Board.

Ans. He was owner of it, and never, to my knowledge, made any objections to the course pursued by the Board.

33. State whether you heard at any time that objections were made by him, if so, what objections were they? (Pl't'ff objects to hearsay evidence.)

Ans. I never heard any objections.

34. State in what may you know Mr. Vallette was aware of the proceedings of the Board of Directors in raising funds and repairing the canal.

Ans. Those agents who solicited loans in Cincinnati were in some instances accompanied by Vallette, as I have been informed by some of them. (Pl't'ff objects to the answer.)

35. State what break occurred in the canal next previous to December, 1852, what was the extent of it, and what was the cost of the repair.

Ans. The break of 1847. There were two breaks in 1847—one in January 1st, 1847, the other in November, 1847. They were both extensive breaks—laid the whole canal in ruins. They both amounted to about $150,000, as well as I now recollect—that is the costs of repairing them.

36. State what amount is due at this time from the Company for the repairs of those breaks, and furnish a list of the names of the persons to whom sums are due, and the respective amounts. (Pl't'ff objects to the question as calling for irrelevant testimony.)

Ans. There is due at this time on account of those two breaks, about $97,500. The writing hereto attached, signed by me, is such copy marked H, O, by the notary.

37. State what amount is due from the Company on account of the small transferable certificates, alias scrip, issued by the Company to contractors or otherwise.

Ans. Twenty-one thousand one hundred and thirteen dollars and eighty-four cents.

38. State in what condition or form of indebtedness this now exists.

Ans. $2036 of the scrip is still outstanding, $16,393.77 has been deposited with the Company and written bonds issued therefor, and $2684.07 has been deposited in the treasury of said Company, for which certificates of deposit has been issued, and are still outstanding. (Pl't'ff objects, because it is irrelevant to the issues.)

Bonds issued for loans of 1847, 1848.

Jeremiah May,	10 00	Angill Bennett,	5 00
M. Helm,	100 00	John Pleak,	10 00
Geo. Faybarger,	850 00	Ephraim Clifford,	25 00
James Handley,	25 00	Wm. Pursell,	50 00
Enoch Lewis,	10 00	John Hughes,	5 00
Wm. Daily, Jr.,	5 00	John Littles,	5 00
Joseph Caldwell, Jr.,	5 00	John Ryburn,	20 00

Phillip Snyder,	5 00	Enoch Harlan,	100 00
Joseph Draper,	10 00	Charles Frost,	60 00
Geo. Corrome	5 00	Delilah Hall	5 00
Henry Walker	10 00	John McIlwayne	100 00
John Caldwell	50 00	Samuel Steel, Jr.	10 00
Joseph B. Grubb,	10 00	Samuel Henderson	5 00
John Clifford	45 00	Saml. Stell, Sr.	10 00
John Loden,	30 00	Thos. Hibbs	5 00
W. W. Thomas	55 00	E. D. McConnell	50 00
Jas. Ward	50 00	Abram Miller	20 00
Jonas Fiant	10 00	G. A. Anderson	10 00
Clayton Lambert	5 00	C. Lewis	20 00
Mathew Harlan	10 00	Thos. Murlatt	20 00
Wm. Cason	10 00	Jas. Griffen	20 00
And. Applegate	5 00	Seth Buffington	55 00
Alex. Dale	55 00	Theodore Purcell	25 00
Philip Mason	25 00	A. Shrader	5 00
James C. Rea	10 00	Wm. Duncan	7 34
David Baker	5 00	Wm. Patton	40 00
John Messersmith	50 00	Thos. Henry	10 00
Geo. Davis	50 00	Ambrose Carton	10 00
Daniel Fiant	10 00	Valentine Foland	30 00
Benj'n Clifford	10 00	Joel Scott	10 00
David Hoover	5 00	L. C. Florea	10 00
Charles Williams	25 00	Lewis Ellis	10 00
Alfred Mount	20 00	J. & M. Hittle	5 00
John Brumfield	10 00	Benj. Childers	50 00
John M. McCarty	10 00	C. W. Morrow	10 00
James Trussler	5 00	Samuel E. Williamson	5 00
John A. Clements	5 00	John Rusket	10 00
Daniel Lake	5 00	Hosea Hayden	5 00
W. Holland	5 00	L. A. Nye	20 00
Oliver P. Ross	25 00	S. C. Parkhurst	250 00
Samuel Halstead	5 00	Isaac Shoemaker	250 00
Wm. Russell	25 00	Otho McCarty	5 00
John Goudie	10 00	B. F. Trobridge	15 00
Thos. Disher	15 00	Geo. Harlan	10 00
John Eazan	10 00	Wm. H. Evans	20 00
Mathew Harlan	5 00	Jesse Garmmon	5 00
Wm. Hollingshead	50 00	James Webb	5 00
John Elliott	15 00	Eli Wright	20 00
J. G. Gregg	20 00	Z. Conway	5 00
Abm. Hathaway	10 00	John Whippo	50 00
John J. Swift	5 00	John Whippo	50 00
John P. Brady	10 00	John Huston	25 00
Samuel Harlan	50 00	Gideon Myers	20 00
Peter Messersmith	25 00	David Mount	41 93
Joel Messersmith	5 00	David Lewellyn	5 00

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Jacob Daubenspeck	50	00	Robt. Jeffries	15	00
James M. Green	10	00	Daniel Hankins	500	00
Miller, Brown & Hankins	200	00	Thos. D. Hankins	25	00
Silas H. Stone	40	00	John Huntsinger	5	00
Seth Buffington	25	00	Christian Herr	20	00
John P. Williams	50	00	Fred. Johnsobaugh	580	00
Enoch Stevens	20	00	And. Moffett	20	00
Thos. R. Stanford	10	00	Jno. Hawkins	30	00
H. E. Peele	6	00	Wm. Sparks	25	00
Ellen McNamara	800	48	Ellen McNamara	90	00
R. P. C. Barrack	10	90	Jas. McCollnm	10	00
J. L. Shank	35	00	Charles Morris	25	00
Joel Morris	25	00	Dan. Sinks	113	58
C. W. West	1000	00	" "	100	00
R. B. Bolvler	500	00	Ellen McNamara	229	56
Gregory, Burnett & Co.	200	00	Eli Henby	8	00
Tyler, Davidson & Co.	300	00	Hugh Wallace	12	44
Jas. C. Hall & Co.	200	00	Wm. Askins & Co.	500	00
E. B. Ruder	500	00	Charles Stetson	300	00
Goshorne, Pattison & Co.	100	00	Person & Hoffman	100	00
R. McGregor	200	00	Blackley & Simpson	300	00
Blackwell & Denning	250	00	L. Fagan	250	00
A. B. Fonts	10	00	S. C. Parkhurst	250	00
R. & T. Tyner	526	03	R. Buchanan	100	00
John Lemon	50	00	J. & J. Slevin	250	00
Pat. Harrington	22	00	E. F. Seabold	100	00
John Godley	300	00	Miles Greenwood	200	00
Geo. G. Shoup	1,666	67½	Warren Hartshorn	500	00
" "	708	33	Jacob Scholl, Jr.	10	00
" "	166	67½	Samuel Ball	118	50
" "	416	66	Dinsmore & Johnson	164	18
" "	166	67	J. M. Glidden B. Vance	1	49
" "	416	66	Shoup, Van Bryant & Co.	63	66
" "	416	66	Geo. G. Shoup	821	65
" "	125	00	Van Bargen & Kirk	2,142	76
" "	41	67	O. G. Kerschner	12	98
" "	41	67	Jacob Druschel	20	87
" "	41	67	Z. A. Nye	25	00
" "	41	67	John F. Kimball	19	61
Jesse Heinship	25	00	Price & Lindsey	45	42
Geo. G. Shoup	883	33	Warren Gibbs	60	00
Isaac Dunn	250	00	" "	80	00
Jacob Hays	250	00	" "	82	89
Wymond & Ferris	100	00	Abm. Myers	10	00
Davis Woodward	50	00	Lewis G. Evans	50	00

C. Hiser	5 00	Ezekiel Reed	5 00
E. Corbin	25 00	W. & R. Resor	200 00
H. Simpson	40 00	Ingram & Co.	250 00
O. P. Morton	51 79	Wm. Colville	200 00
Isaac Jenkins	20 00	Nixon & Co.	100 00
P. M. Vorhees	20 00	Messick & Taylor & Co.	150 00
Ellis R. Lake	15 00	Wm. B. Smith & Co.	50 00
F. S. Wright	60 00	John Baker	50 00
Spartan Lodge, No. 24	113 20	Geo. Davis	20 00
N. Sawyer	12 37	Benj. Norris	20 00
R. Calvin	85 00	Samuel Watson	5 00
Jacob Rebsomer	5 00	John Carpenter	5 00
Junction R. R. Co.	70 92	Samuel W. Holmes	5 00
Thos. V. Mitchell	34 50	Daniel Barbour	5 00
Elias Shafer	14 74	Henry Myers	5 00
Ulick Burke	1,000 00	Lewis Smith	5 00
Wm. Ruddell	3 34	Benj. Norris	5 09
John Ryman	35 00	John Vandyke	5 00
J. M. Clements	10 00	James Armstrong	5 00
Richard Calvin	1,061 26	R. T. Cox	5 00
Richard Nash	50 00	Wm. H. Lord	5 00
B. Boylan	100 00	John Blacklidge	10 00
J. Johnson & Co.	150 00	Conrad Kline	5 00
John Miley	250 00	Jas. Shields	10 00
Ball & Davis	200 00	Peter Snelser	5 00
Reys, Maltby & Co.	100 00	Andrew Snelser	5 00
Geo. H. Calvert & Co.	100 00	Henry Guffin	3 48
James Gorman	200 00	N. H. Burke	10 00
Wm. C. Stewart	200 00	Jas. Logan	5 00
J. R. Coram & Co.	250 00	G. G. Shoup	229 90
Griffin Taylor	500 00	Jas. A. Wadley	1,600 00
W. W. Cooper	250 00	Danl. Wampler	11 05
Nicholas Longworth	2,000 00	Geo. Graham	400 00
Springer & Whiteman	300 00	Samuel Reese	268 62
Robt. Stoops	12 18	R. Calvin & Co.	500 00
Ulick Burke	275 00	Wm. Pogue	5 00
Joseph Dale	25 00	W. Proctor	5 00
Jo. Anushberger	30 00	Thos. Wooster	10 00
Vore & Kirk	65 00	W. B. Unthank	10 00
John Roberts	860 00	Jacob Weeks	10 00
John Wilson	100 00	James Woods	30 00
Saml. Harlan, Sr.	40 00	Richard Goodwin	10 00
Nancy Harlan	40 00	Henry Raymond	25 00
M. McCrory	60 00	Henry E. Peelle	15 00
A. Brookbank	50 00	John G. Fulton	80 00
John Clifford	55 00	Vore & Kirk	10 00
Jacob Weeks	40 00	Sol. Earl	5 00
James Woods	20 00	C. W. West & Co.	185 00

Jno. Bundy	60 00	Matthew Hastings	10 00
Jno. W. Bond	20 00	A. C. Davis	5 00
J. W. Macy	40 00	Houston & Pierce	10 00
R. Calvin	60 00	Geo. Heimer	25 00
Geo. G. Shoup	400 00	C. B. Jackson	15 00
Scott & Schofield	120 00	John Swazey & Co.	100 00
H. C. Moore & Co.	40 00	S. C. Parkhurst	5 00
Neff & Brothers	60 00	John Baker	395 00
Sampson, Lindley & Co.	200 00	R. Calvin & Co.	5 00
Muller & Lawrence	100 00	Geo. G. Shoup	395 00
John Eltsner	80 00	Scott & Schofield	125 00
John Baker	140 00	H. C. Moore & Co.	5 00
Charles Neave	100 00	Jno. Banes	850 00
Campbell, Ellison & Co.	200 00	M. McNamara	80 00
Harrison & Hooper	200 00	C. W. West & Co.	140 00
Hunter & Wells	100 00	John McCain	65 00
Bates & Whitcher	100 00	Geo. Waldoorf	110 00
Traber & Auberry	100 00	N. Ferror	25 00
Jno. Banes	280 00	Geo. G. Shoup	575 00
J. W. Macey	40 00	J. W. Macey	65 00
R. Calvin & Co.	140 00	John Whippo	208 20
John Lunpus	30 00	Silas Andrews	234 55
Scott & Scofield	200 00	E. Applegate	92 12
Wilcox & Reed	175 00	John Powell	251 17
John Arnold	18 83	Lewis Smith	6 41
Nancy McCabe	84 07	Menor Meeker	83 81
Thomas White	41 87	Geo. Davis	293 65
M. H. Lawrence	16 80	Alex. Dale	418 61
Lucinda Green	27 57	Wm. Jeffrey	41 48
J. H. Hill	45 51	M. Helm	125 75
John Scott	37 83	John McIlwayne	100 66
James McCowan	10 00	John S. Newman	1,737 81
Wm. Scruggs	5 00	Samuel Hannah	1,152 96
Wm. Clifford	5 00	F. C. Holliday	22 90
Jacob Parish	5 00	Sarah "	22 90
Jas. Hannah	5 00	Israel A. Hannah	23 08
Ganett Wykoff	10 00	Wm. Banks	10 53
John Roberts	8 75	C. B. Smith	896 57
Phillip Mason	5 00	Robt. Griffis	69 70
Samuel Harlan, Sen.	15 00	David Frant	16 81
Jesse Hiatt	40 00	Wm. P. Hannah	22 94
John Crum	30 00	Wm. Lair	100 81
Ezra Walton	5 00	Jno. S. Newman	36 39
J. P. Muzzy	5 00	Joel Rusey	397 74
John Bundy	10 00	E. B. Cooper	45 09
John Dill	10 00	Benj. Thomas	16 81
John Shaffer	5 00	Eph. Clifford	33 53
James Barnard	5 00	E. D. McConnell	42 21

John Roberts	400 00	James Woods	1,429 53
Jno. Banes	735 00	Chas. E. Shiply	83 71
J. D. & C. Jones	1,159 00	E. Carver	8 39
Josiah Mullikin	100 42	A. B. Connell & Son	3,247 00
Hez Mount	1,410 32	Jacob M. Klum	74 97
Robt. Houston	19 13	Geo. Lucks	350 99
Richard Nash	49 72	Isaiah Harvey	81 74
Joseph Dale	174 33	Benj. "	81 74
Geo. Holland	342 97	Nathan "	81 74
Wm. Dickey 3d	43 50	Morrison & Newby	140 41
John Ferris	38 20	Thomas Jeflerisler	167 30
H. H. Gillon	14 49	Geo. Harlan	16 77
Joseph Anderson	156 34	John Baker	16 82
John Gregg	53 44	J. T. Smith	25 13
Geo. Winchell	12 88	John Buchanan	16 70
J. M. Ross	24 29	H. Hannah	16 78
C. W. West	16 72	Hopkins & Heatt	83 30
Jas. Raridan	1,718 62	Wm. C. "	81 74
John Clifford	456 18	Mary E. Jackson	81 74
Jas. Veatch	58 65	Jane A. Ray	81 74
Joel Pusey	130 61	John P. Harvey	81 74
Joshua Pusey	503 97	Mary E. Harvey	20 43
Hacker, Lea & Co.	495 79	Alonzo D. Harvey	20 43
James Fitzgerald	35 47	Margaret J. West	20 43
Sarah Pickett	142 76	C. M. Harvey	20 45
Henry Henly	42 15	Wm. Dickey 3d	50 43
Wm. Gordon	184 69	Avery Gates	41 70
Jno. Huddleston	84 00	Miller & Houston	16 82
Samuel Harland	130 76	Justus Wright	50 46

39. State what would have been the earnings of the canal, if the repairs required by the floods of January and November, 1847, had not been made, and what the damages to the renters of water power would have been.

Ans. Nothing. It would have ruined three-fourths of the renters of water power, all of them of small means, if the repairs had not have been made.

40. State whether any water power in use was left undestroyed by the breaks of January and November, 1847?

Ans. There was not a water wheel on the canal, that was fed by the canal, that could turn next morning after the break.

41. State what would have been the earnings of the canal if the repairs required by the flood of December, 1852, had not been made.

Ans. Nothing at all.

42. State what you know of Vallette agreeing with persons who loaned money for the repairs last made, and with persons who took contracts in making said repairs, that if they would do so, they should receive their pay, from the tolls and water rents of the canal,

in preference to all other debts of the company. (Plt'ff objects to the question.)

Ans. I don't know personally anything about it; have heard contractors and creditors say that they had such a guaranty from Vallette, before they commenced operations.

43. State what was the estimated cost of the work embraced in the proportion made by Vallette, July the 2d, 1844, to the Canal Company, and who was the engineer that made the estimate?

Ans. It was sixty-four thousand six hundred and sixty-two dollars and ninety-eight cents. Henry C. Moore was the engineer in chief by whom the estimate was made.

44. Was that an estimate of the actual or supposed amount of work on that portion of the canal?

Ans. It was an estimate of the supposed amount of work, but it was not intended to be strictly accurate.

45. State whether H. C. Moore, estimates of the cost and quantities of work, were above or below the actual results?

Ans. Mr. H. C. Moore estimates were always liberal, both in price and quantities, and oftener proved too great than too small.

46. Do you know of any instance on the canal where his estimates of the cost and quantity of work, was less than justified by the facts on the completion of the work? (Plt'ff objects on the ground of irrelevancy.)

Ans. I don't reccollect of any.

47. State what was Mr. Moore's object, if any, in that making his estimates.

Ans. It was for the purpose of not misleading his employers.

48. State what was the usual cash estimate of the work done by Henry Vallette at that time. (Objected to by plt'ff on ground of irrelevancy.)

Ans. I should suppose from ten to twenty per centum below Mr. Moore's cash estimates. (Ans. objected to, because it is not correct, by the plaintiff—it is irrelevant.)

49. State whether the work done was greater or less in quantity than the amount of work estimated by H. C. Moore. (Plt'ff objects to the question.)

Ans. It was about ten per centum less than the estimated quantities.

50. State what change or changes were made in the work done by Mr. Vallette, that diminished the cost of it.

Ans. There was a change in the plan of crossing Lick Creek, from an aqueduct to that of culvert.

51. State what amount was paid by Mr. Vallette to his contractors for the work done.

Ans. Mr. H. C. Moore final estimates shows that there was paid on account of such final estimate, $53,828 46¾.

52. State how the price allowed Vallette for the work done by

him, compared with cash estimate of such work. (Plt'ff objects as irrelevant.)

Ans. It was a trifle over one hundred per centum over the cash estimate of such work, in some items it was largely over that, and some it was less, some as high as 350 per centum. (Answer objected to by plt'ff.)

53. State who fixed the prices allowed Vallette for the work, and by whose direction it was done.

Ans. Henry C. Moore fixed the prices, and it was done by the direction of the board of directors.

54. What was the object in fixing the prices, on an average, at the rate they were fixed?

Ans. I think it was to agree with the spirit of the proportion. The proportion contemplated getting the bonds at fifty cents on the dollar, and this was to carry out the arrangement.

55. State whether you had any conversations with Mr. Vallette about that time as to the rate at which the bonds of the company could be obtained, and if so, state what they were.

Ans. I had a great many conversation with H. Vallette about that time. In which I told him that he could get the bonds of the company for fifty cents on the dollar.

56. Did Mr. Vallette appear to know anything about the price or value of work, as a contractor or otherwise? (Objected to by Vallette as irrelevant.)

Ans. Mr. Vallette was entirely ignorant of the cost of doing work.

57. State who drew up the contract signed by the parties.

Ans. It was drawn by me, the copy that I have is in my handwriting, it is a duplicate copy, and belongs to the canal company. (Ans. objected to by plt'ff because the duplicate copy is not here.)

58. State whether you have seen the other copy, and if so, by whom is it drawn?

Ans. I saw the other copy some month ago, it was drawn by myself.

December 14th, 1855, the further taking of this deposition is continued by the agreement of the parties until Monday morning at 8 o'clock A. M., of December 17th, 1855.

Monday, December 17th, 1855, parties met: present Jas. A. Fay, attorney for the respondent, and Henry Vallette the complainant in person—and the further taking of the deposition of Wells E. Lawrence was resumed.

59. What prices or rate were fixed on work not specified, and for which no prices were named?

Ans. One hundred per centum above the cost.

60. By whom was that cost price fixed, and the per centum added? (Plt'ff object.)

Ans. It was fixed by the directors through their chief engineer, Henry C. Moore.

61. Was their work not embraced by the terms of the contract done under the same?

Ans. There was.

62. Who fixed the price for this work, and in what manner was it done?

Ans. The chief engineer fixed the prices; there is a clause in the contract, which provides that for any work required to be done under the contract the price of which is not therein specified nor included in the price of any other item, Mr. Vallette should be allowed such price as the chief engineer of the company should determine to be just and reasonable, relatively to the other prices embraced in said contract. In fixing the relative price to all the work not specified in the contract, the cost prices were doubled, or one hundred per centum was added to the cost of the work in the settlement with Vallette.

63. Did the work specified in the proposition of Vallette include all that part of the canal then unlet?

Answer. It did.

64. In what manner were contractors then on the canal to be paid for their work—I mean the contractors prior to July 1, 1844?

Ans. In canal scrip, real estate, and capital stock of the company.

65. State what was the feeling of contractors and workmen on the canal in June, 1844, toward the company on account of the character of the pay they were obliged to receive.

Ans. It was not very good, at that time, some of them were very much exasperated. Laborers had been employed at about eight dollars per month, payable in canal scrip, and they could not use it very well in the purchase of goods and provisions at only about fifty cents to the dollar; they insisted that the directors should take some measures to redeem their scrip, of which they had their pockets full, and in conveyance of their not doing so, there was a panic about that time among them.

66. December 17th, 1855, at 5 o'clock P. M. The further taking of this deposition was continued until to-morrow morning at 8 o'clock A. M.

Tuesday, December 18th, 1855. Jas. A. Fay, Att'y for the respondent, and Henry Vallette, the complainant, in person, appeared, and the further taking of the deposition of Wells E. Lawrence was resumed.

66. State what fears the directors entertained if the money was obtained directly from Vallette, as to the application of it, to that portion of the canal included in his proposition.

Ans. They were afraid that they would not be able to apply it to that portion of the canal.

Ans. When it was understood by the contractors then on the work, that the company were about to get a loan, they insisted upon having some of the money, and there was talk, among the contract-

ors and laborers of breaking in and taking it by violence if they could not get it in any other way.

68. State if you remember of hearing any of the directors speak of this matter, and what was stated.

Ans. Yes, I heard them speak of it; it was the opinion of the directors, that if they get a loan of money, that a portion of it would have to be appropriated to the former contractors.

69. State what, if anything, was said in conversation between you and H. Vallette, about the company being in his power, and his being able to impose his own terms. (Pl'tiff object.)

Ans. Mr. Vallette knew that to be the fact, for I told him so repeatedly, that I believed they would accept any proposition he would make.

70. State whether he talked with you frequently about what the board would be willing to do for the purpose of receiving the completion of that portion of the canal.

Ans. He did.

71. State whether this portion of the canal had been advertised for a letting.

Ans. It never had been advertised by the company.

72. What was the practice of the company in regard to advertising work in all other cases?

Ans. At all previous lettings of work by the company, it was their practice to advertise and circulate handbills and notices to bidders.

73. State whether there had been any previous intention on the part of the company of letting any more work on the line till they could obtain a loan with which to do the work.

Ans. The company intended to complete the work as rapidly as they could. The company had, previous to this, made applications for loans with which to do the work.

Ans. The company intended to complete the work as rapidly as they could. The company had, previous to this, made applications for loans, and had executors their bonds for that purpose, which were then in the City Bank of New York, to the amount of one hundred thousand dollars: on the 3d of April, previous to this transaction, Jas. Rariden, Esq., was appointed agent of the company to make a loan of fifty thousand dollars, and use the bonds then on deposit in New York for that purpose.

74. What was the practice of the company as to the estimated cost of any work as made out by the engineer, being made known to bidders at any time?

Ans. The estimates of the engineer on this line were always kept private, except in this case. Contractors always liked to know what the engineer's estimates are on work which they design to bid for. I have been offered five hundred dollars for a sight at the engineer's estimate previous to a letting on this line by contractors.

(Plt'ff objects to the question and answer.)

75. State how the transaction of Mr. Vallette with the company was regarded at the time.

Ans. It was regarded as a loan.

76. Who had the management and direction of the sub-contracts of Mr. Vallette, and when are those sub-contracts now, and where have they always been?

Ans. The engineer of the company had the direction of the work; those sub-contracts are now and always have been in the office of the company. (Plt'ff objects to the above question and answer thereto.)

77. How many bonds were issued to Henry Vallette, and what ones were issued on account of interest, and for what amounts, and at what rate were the bonds for interest issued?

Ans. One hundred and sixteen bonds of $1,000 each were issued to him, of which bonds numbered 92, 93, 94, and 95 were for interest, and issued at seventy cents to the dollar. Nos. 92 and 93 were due in two years from date, and Nos. 94 and 95 are due in three years from date, all dated July 9th, 1845—I mean those four bonds.

78. State what bonds were surrendered, and when it was.

Ans. On the 14th of March, 1845, bonds numbered from one to thirty-five inclusive were surrendered to the company, and thirty-five other bond issued in lieu thereof. The first twelve of those dated October 29, 1844; the balance dated 6th January, 1845.

79. State whether any other bonds issued to Vallette were surrendered.

Ans. Three of the interest bonds have been paid off and surrendered. I never knew of any other bond having been surrendered or issued than those above named in my answer to question No. 78.

80. State whether you have examined for the purpose of ascertaining what bonds had been surrendered, and others issued in the place thereof, and what examination you make.

Ans. I examined the records of the company for that purpose, and found that the first 35 bonds spoken of before had been surrendered, and new ones issued in their place.

81. Was ten per centum retained until the completion of the work?

Ans. On the first thirty-five bonds that were issued, ten per centum was retained until they were surrendered; it was then returned and included in the new issue of bonds, and from that time ten per centum was retained until the final estimate.

82. State where are the estimates of Vallette's sub-contractors, and in whose writing are the sub-contracts filled up?

Ans. They are in the office of the company. The contracts that I have are in my handwriting, and I have all of them in the office of the company.

83. What conversation did you have with Mr. Helm in May last, at his residence—I mean Meredith Helm—in relation to the trans-

action of H. Vallette with the company? (Plt'ff objects to the question.)

Ans. I met Mr. Helm on the morning of the 27th of May last, at his house, and remarked to him that Mr. Vallette was in town. He inquired of me what he wanted. I replied, that he wanted to examine the records of the company, that his motion for an injunction had been rejected by Judge McLean a few days before that in consequence of its being a loan. He then replied that it was a loan made in good faith, and ought to be paid, and that the company could pay it if Mr. Vallette would extend the time ten years, and that the stock of the company would by that time be good, and he would rather have it now than the capital stock of the Junction R. Road Company. (Plt'ff objects to the above answer.)

84. Do you know whether Mr. Vallette called on Meredith Helm during the day? if so, state what you know about it.

Ans. Vallette told told me the next day that he had seen Mr. Helm, and all the rest of the directors living, except Mr. Reeve, and that all that he had seen called that transaction a contract, and not a loan, except Mr. Helm, and he did not seem to recollect much about it, and further remarked that M. Helm had very little to do with the transaction, that he merely signed the papers. (Pl'ff objects to above question and answer.)

85. State whether you have examined the record of the company, and if so, state whether you find whether any action was had by the board of directors, in relation to the act passed by the several Assembly of Indiana, "Entitled an act to legalize certain proceedings therein named," approved January 4th, 1845," either before or after it was passed, or whether it was ever sanctioned or adopted by the board. (Pl'ff objects.)

Ans. I have made an examination of the records of said company for that purpose, and find nothing of the kind upon them, the subject is not mentioned in the record of the company.

86. State how much has been paid to H. Vallette, and at what times the same has been paid, and furnish a statement thereof in answer to this question. (Pl'ff objects to question.)

Ans. There has been paid on all the bonds, sixty-nine thousand three hundred and twenty-seven dollars and ninety-four cents ($69,327 94), $12,582 12 of which has been paid on account of 26 of the bonds held in New York, and the times of the several payments are as appears by the copy hereto attached, and by me made a part of this answer, and marked "K." (The above answer objected to by pl'ff.)

87. State whether the locks included in the contract with Vallette, and especially the tumble walls, were built in a proper and substantial manner, with suitable materials, distinguishing each lock or tumble wall.

Ans. The tumble walls of two of the locks built by Vallette have fallen down, and the balance have all had to be propped to keep

them up. They were not built in a proper and substantial manner. The cut stone masonry lacked a sufficient number of headers, and they did not run through the wall and bind it as they should: the cut stone masonry consists of headers, stretchers, and backing: the specifications in the construction of such work required that headers extending quite through the wall should be placed within four feet of each other, for the purpose of binding it together; in these two tumbles that have fallen, on Vallette work, it appears that the headers were of the same length of the width of the free stone, and did not extend through the wall, and the result is that the face stone fell over, there being nothing to bind it to the backing. (Pl'ff objects to above question and answer.)

1846.	Feb'y 1st,	Paid	Vallette	at	of int'st on bonds,	4537 72
	July 37,	"	"	"		4151 71
1847.	Jan'y 23,	"	"	"		1410 50
1848.	Oct. 11,	"	"	"		738 86
	Nov. 10,	"	"	"		1298 23
	Dec. 11,	"	"	"		1243 69
	Dec. 19,	"	"	"		50
1849.	Jan'y 16,	"	"	"		789 04
	Feb'y 13,	"	"	"		279 28
	March 7,	"	"	"		410 94
	March 23,	"	"	"		5 00
	April 20,	"	"	"		2439 77
	May 5,	"	"	"		2234 05
	June 8,	"	"	"		1136 29
	July 23,	"	"	"		857
	Aug. 20,	"	"	"		300
	Oct. 9,	"	"	"		1321
	Nov. 20,	"	"	"		911
	Dec. 6,	"	"	"		691 28
1850.	Jan'y 18,	"	"	"		1215 23
	Feb'y 14,	"	"	"		1507 97
	Oct. 17,	"	"	"		1654
	Nov. 17,	"	"	"		1726 58
	Dec. 15,	"	"	"		1450
	Dec. 23,	"	"	"		255 15
1851.	Jan'y 13,	"	"	"		1892 88
	Jan'y 25,	"	"	"		800
	Feb'y 6,	"	"	"		2205 32
	March 8,	"	"	"		1541 33
	April 14,	"	"	"		1408
	May 12,	"	"	"		982
	June 9,	"	"	"		999
	Aug. 12,	"	"	"		840
	Sep. 13,	"	"	"		1025
	Oct. 12,	"	"	"		1491 15

	Nov. 10,	"	"	"	1891 79
	Dec. 22,	"	"	"	1596
1852.	March 11,	"	"	"	1451 45
	March 23,	"	"	"	16 30
	May 27,	"	"	"	1500
	Aug. 1,	"	"	"	1603 19
	Aug. 1,	"	"	"	27 41
	Nov. 12,	"	"	"	2800
	Nov. 18,	"	"	"	60 72
					$56,745 83

Also for 26 bonds held in New York.

1849.	March 21, Cash,		1034 00
	July 13,	"	1097 80
	Sep. 27,	"	417 43
1850.	Jan'y 8,	"	505 18
	July 2,	"	650 00
1851.	April 30,	"	1033 99
1852.	Jan'y 10,	"	1017 36
	April 28,	"	3940 88
	Aug. 1,	"	914 55
1853.	Dec. 9,	"	210 00
1855.	Feb'y 22,	"	1760 92
	Total amount paid at 112 Bonds,		$69,327 94

Attest, W. E. LAWRENCE.

State whether this could be discovered when the work was finished, and if the outside presented the appearance of their being the proper number of headers. (Plt'ff objects to question and answer.)

Ans. It could not. It would have every appearance of a good job from the outside.

89. State the number of tumble walls that are in this condition on that portion of the canal.

Ans. There were eight, two of which have been rebuilt; now there are only six.

90. How many locks were there on that portion of the canal which were built by Vallette?

Ans. There were eight.

91. State whether the other ones would have fallen down if they had not been propped up.

Ans. I cannot say positively. The superintendent propped them up for fear they would fall down. My opinion is they would have fallen down. (Objected to by pl't'ff.)

92. State what it would cost to rebuild and repair these walls in the manner they should have been at first.

Ans. It would cost about one thousand dollars each.

93. State the present condition of the canal, whether the same is in repair, and how much it will take each year as a probable amount to keep it in repair.

Ans. It is in very good repair at present, so good that boats are now taking out sixty tons of freight at a load; and I believe that the ordinary repairs will be about ten thousand dollars annually. (Pl't'ffs object to above question and answer.)

Tuesday morning, July 2d, 1844.

The company met pursuant to adjournment, present the same as at adjournment, when the following business was transacted, viz:—

Henry Vallete present his proposition in writing (marked A) for the completion of sundry section of the canal for the sum of ($125,000) one hundred and twenty-five thousand dollars in the seven per cent. bonds of the company, which proposition, after mature deliberation, and all things touching the same, being duly considered, is by the company accepted, and the attorney of the company is directed to draw out an article of agreement in accordance with the spirit of the proposition for the immediate execution of the parties, which proposition, upon a call of the ayes and noes, is adopted by the following vote:

Ayes. Messrs. Claypool, Crum, Hankins, Jackson, Murphy, Reeve, Sinks, and Helm.

Noes. Mr. Mount.

And now comes the attorney of the company, and presents to the company duplicate copies of the contract with Henry Vallete for the construction of Sections No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 130, and 132, also the Greenses fork feeder and dam, and a road bridge on Section No. 114, and the said Vallete comes also, and the contract being read and fully considered, and it appearing that the details of the contract as drawn out are in accordance with the spirit of the proposition as originally presented and accepted, the contract is by the Co. approved and directed to be duly executed, which is done.

I certify the foregoing to be a true copy of the record now on file in my office.

W. E. LAWRENCE,
Sec'y.

94. State what is the probable amount of the expenses of the company ordinarily each year.

Ans. About five thousand dollars.

95. State whether H. Vallette presented more than one proposition to the board, in whose writing the proposition was, and whether it was accepted, and furnish a copy thereof and the order of the board on the subject thereof.

Ans. Never but one—that is in the handwriting of S. W. Parker, which was accepted, and the writing hereto attached, and marked C, D, is a copy of the original propositions, and the writing hereto attached marked E, F, is a copy of the order of the board on that subject.

96. State whether you have a copy of the bonds prepared for a loan by the Company and offered in New York and other places, to procure a loan upon, prior to July 1st, 1844; if so, attach the same to your answer to this question and identify the same by your signature.

Ans. I have a copy—and the printed from hereto attached and marked

Exhibit "C, D."

Mr. Vallette agrees to supply the material and complete at his own expense section No. 112, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, Feeder 127, 130, and 132, of the White Water Valley Canal agreeable in all things to the plans and specifications, exhibited to him by Mr. Moore, the Chief Engineer of the Company, within one year from the 1st day of September next, weather permitting, for 125 of the bonds of the Co. each for $1,000, upon 10 years' time, drawing an interest of seven per cent. payable semi-annually, and he agrees to pay the Company a bonus of $500, in their own paper, and in case any change is made by the Engineer that may increase or diminish the amount of work, the matter shall be adopted, by reference, if it cannot be amicably done, to Chief Engineer of the Company, for details of the agreement to be formally drawn out and executed by the parties July 2d, 1844.

HENRY VALLETTE.

B, O, is a copy of such bonds—or in truth one of the original bonds.

97. State whether there is an order by Board for a loan to be made of the Lafayette or Franklin Bank of Cincinnati, or any provision for such loan made by the Directors of the Company.

Ans. There is no order on their Books for a loan from either of these banks, nor is there *is there* any provision therefor.

98. When was A. B. Conwell first a candidate for Director of the Company?

Ans. On the first Monday in January, 1848.

99. State whether he was elected or not.

Ans. He was elected.

100. State when Henry Vallette was first a candidate for Director of said Company. (Pl'ff objects.)

Ans. At the same time—and was not elected.

101. What do you know about the fourth bond issued for interest?

Ans. S. W. Parker brought suit on that bond against the company, and obtained a judgment on the 6th of October, 1849, which was

levied on property belonging to the company in Connersville, Ind., and $800 was collected thereon. I think the balance is still unpaid.

102. State whether those 4 bonds, called interest bonds, drew interest, and at what rate.

Ans. They drew interest at the rate of 7 per cent. semi-annually, payable at the office of John Ward & Co. in the city of New York.

103. Does the record state at what rate those four bonds were issued to Mr. Vallette? if so, furnish a copy of the statement.

Ans. The record does state the rate at which those four bonds were issued.

The paper hereto attached and marked "L" is a copy of such statement.

UNITED STATES OF AMERICA,
State of Indiana:

$1000. No.

The White Water Valley Canal Company. Canal Loan—six per cent. stocks. Under the Act of the General Assembly of the State of Indiana, entitled, "An Act to incorporate the White Water Valley Canal Company." January 20, 1842.

Know all men by these presents, That there is due from "the White Water Valley Canal Company" to or , the sum of one thousand dollars, bearing an interest of six per cent. per annum from the date hereof, payable semi-annually in advance, on the first days of July and January, at the office of , , in the city of New York, on delivery of the dividend warrants severally subjoined, until payment of the principal sum, which principal sum being stock created by the Company under their Charter for the completion of their canal, is payable in years from this date; and for the punctual payment of the interest and ultimate redemption of the principal, agreeably to this contract, the faith of the Company and their effects, both real and personal, are irrevocably pledged.

Witness the signature of the President of the Company, and the attestation of the Secretary.

Attest, Secretary. President.

"The White Water Valley Canal Company" under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1850.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due Jan. 1, 1849.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your

office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1847.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due January 1, 1846.

The White Water Valley Canal Co., under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due January 1, 1850.

The White Water Valley Canal Co., under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1848.

The White Water Valley Canal Co., under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due January 1, 1847.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1845.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1849.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due January 1, 1848.

The White Water Valley Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due July 1, 1846.

The White Water Valley *Valley* Canal Company, under the Charter Act of January 20, 1842, of the city of New York, at your office, pay the bearer thirty dollars, being six months' interest on bond No. , due January 1, 1845.

W. E. LAWRENCE, ———.

"B. O."

I certify, that at a meeting of the Board of Directors of the White Water Valley Canal Company, held on the 9th of July, 1845, it was

among other things ordered—Henry Vallette having proposed to take the bonds of the company on time, for the interest due him in August next, at 70 cents per $1—That four bonds of $1,000 cash be issued him, two on two years' time, and two on three years, and any surplus said bonds may make over and above his due shall be paid by him in cash, or allowed on his next instalment of interest, as he may desire.

Attest, W. E. LAWRENCE.
Sec'y.

Cross-examination.

1. What is the present amount of the indebtedness of the W. W. V. Canal Company, independent of the bonds issued to Vallette, including the amount owing to stockholders for taxes, or assessment on stock? and state the same in items.

Ans. I cannot give the precise amount at the present time.

2. What was the amount of debts of the company embraced in all the propositions of the previous question, on the first of July last, or the time when the books were made up, in June or July next?

About one hundred and ninety thousand dollars.

3. What amount of good debts are now owing to the company?

Ans. I can't state what amount now are due; but in July last the amount was about twenty-two thousand dollars.

4. Have any of those debts since been paid; if so, what amount? State as near as you can, without looking at the records.

Ans. Some of them have. I can't state the amount correctly without an examination of the books.

5. Are you familiar with the books of the company?

Ans. I am.

6. State from memory, as near as you can, the amount of debts they have collected since July last, due the company previous to that time.

Ans. They have collected several thousand dollars.

7. State whether Mr. Vallete was aware that the company had made an assignment of the work, or were proceeding to raise money to repair the same, and was there an assignment of the tolls to be received made; if so, to whom was it made?

Ans. A receiver was appointed by the Board to receive the revenue of the canal, and pay it over to those who should loan money for the repairs of the canal. Richard Tyner, of Brookville, Indiana, was the receiver. The company were proceeding to raise money to repair the canal. I think Mr. Vallete was aware that the company had appointed such receiver, because they had notified him that they would do so.

8. Was Mr. Tyner appointed a receiver by order of the Board; if so, do the record of the Board show that fact?

Ans. He was, and they do so.

9. Did Mr. Tyner accept such receivership, and was any money ever paid over to him as receiver?

Ans. I don't know, at least he never (was) qualified as such receiver; he failed to file the bond required by the Board; no money was ever paid over to him.

10. Did the company proceed to raise money, and proceed to manage the repairing of the canal after that?

Ans. They did.

11. Did they manage that as they had their ordinary business previously?

Ans. I don't know any difference.

12. On what ground did the company presume that Vallete should keep their canal in repair for them?

(Objected to by def'ts.)

Ans. I don't know on what ground, except it was this—that he was a large bond-holder.

13. You say that $2,017 of the scrip is outstanding; has it been presented for payment?

Ans. A portion of it has.

14. You say $16,393 77 has been deposited with the company, and bonds issued therefor. Has that scrip been destroyed or cancelled?

Ans. I believe it has been both cancelled and destroyed.

15. Did not Judge McLean decide that scrip to be illegal, when Vallete applied to him for an injunction in September, 1847?

(Objected to by defendant. That the decision of Judge McLean will show what he decided; therefore, the answer of witness could have nothing at all to do with it.

Ans. I don't know; never read Judge McLean's decision.

16. When were those bonds issued for that scrip? Give the date of them.

Ans. The most of them were issued October 23d, 1847.

17. Who were they issued to?

Ans. John D. Jones, Griffen Taylor, David Hankins, Vatchel Worthington.

18. Were there bondholders applied to, to repair the canal at the same time Vallete was called upon to do it?

Ans. I don't know that they were.

19. Have you reason to believe they were? if so, give your reason.

Ans. Some of them were. J. D. Jones was at that time a member of the Board.

20. Were any of the other bondholders applied to, and if so, how were they applied to (I mean of those named above), and were they informed that the canal would be assigned, if they did not furnish money to repair the canal?

Ans. I don't know whether either of the others were especially applied to.

21. You say that the renters of water power would have been ruined, and the canal would have produced no revenues, had it not have been repaired; were not the farming and business community,

in all the counties along the line of the canal, deeply interested in having the canal repaired? (Objected to by def't.)

Ans. They were.

22. Don't you think or believe that money was advanced to the company to repair the canal, in consequence of the interest which the community had in having the canal speedily repaired? (Def't objects, on ground of its irrelevancy: it asks for witness's belief.)

Ans. It unquestionably was to their interest to have it repaired immediately. I presume money was so advanced in consequence thereof.

23. You say that H. C. Moore's estimate for the work done by Vallete was not intended to be strictly accurate; was it not intended to be as accurate, as an estimate, as it could be made under the circumstances?

Ans. In taking the field notes, on which estimates are based, prior to lettings of public works, levels are usually taken every four rods, and when there are little inequalities in the ground, those notes will not give an exact measurement of the contents of the work; upon the construction of such work, the proper number of levels are taken in such places as to give an exact measurement. It was not as accurate as estimates could be made, but was as accurate as estimates are usually made by engineers for the purposes of a letting.

24. Was not Mr. Vallette led to believe, from circumstances that came to your knowledge at the time of making the contract, that the aforesaid estimate of H. C. Moore was a fair estimate of the probable cost of the work done by said Vallete? (Def't objects, because it does not ask for facts, but asks for his belief.)

Ans. I told Mr. Vallete at the time that I would guarantee to him that the work could be done for less money than that.

Does $53,828, which the chief engineer's final estimate showed, embrace all the money that was paid out on Vallete work, as you state in a previous answer?

Ans. I stated in a previous answer that was the amount of the chief engineer's estimates to Vallette's sub-contractors.

26. Do you not know or believe that there was extra allowances made to some of the sub-contractors by H. C. Moores with Vallete consent? (Objected to by def't, on the ground that he asks for wit. belief.)

Ans. The final estimates of the engineer to Vallete sub-contractors show that there was work done by many of them, not included, and for which there was no price in the contract. They also show that extra work is included in each final estimate, and I know of no extra allowances, and believe that there were none, not mentioned in the final estimate to said sub-contractors.

27. Do you know of your own knowledge that Vallete did not pay out more than $53,828 for the work done on his contract, and is that what you mean to say?

Ans. I mean that is the amount paid to contractors for doing the work. (Answer objected to pl'tiff.)

28. Were there not other expenses connected with the performance of that contract by Vallete, over and above what was paid to his contractors? (Objected by def't. Don't show what expenses are referred to.)

Ans. I presume there were.

29. You say that some of the work was estimated at 350 per centum over the supposed cost; how much of that work, and name what kind of that work was estimated in that way?

Ans. I will correct my former statement on this point, and say that some of the work was estimated at 375 per centum over cost. The item of head gates to the Feeder culvert was estimated to cost, and did cost, $20, and Vallete was paid $75 for them; that is the only item that I have noticed that afforded 375 per centum profit.

30. What was the amount of work done by Vallette that paid three hundred and fifty to three hundred and seventy-five per centum profit?

Ans. You have the answer to that question in the answer to the preceding question.

No. 31. Do you mean to say that the amount of work done by Vallette was seventy-five dollars, on which this large profit was paid?

Ans. I mean to say that the estimate on the feeder head gates was twenty dollars, which sum was paid to the sub-contractor, and that Mr. Vallete got seventy-five dollars for the same work.

32. You say that H. C. Moore fixed the prices on the estimate of Vallette work by the direction of the Board of Directors—do you refer to the prices named in the contract with Vallete?

Ans. I do.

33. Were those prices fixed to enable Vallete and the company to settle with each other for the work according to the amount of the various kinds of work done under the contract, in accordance with the original proportion, or to avoid lumping operation for the whole job.

Ans. Mr. Vallete original proportion was to do the work for one hundred and twenty-five thousand dollars, payable in the company's bonds. This proposition was accepted by the Board, and the engineer, or the attorney of the company, I don't now remember which, were by them instructed to draw up a contract with Mr. Vallete in accordance with the spirit of that proposition, which was done; these prices are the result of that instruction.

34. After the acceptance of Vallette's original proposition, and before the contract was drawn up and signed, was it not changed from the terms of the original proposition to an ITEMIZED CONTRACT of the same kind, usually made by contractors on public works like this?

Ans. There was no charge in the proposition as originally made,

and the present contract, and the prices therein stated, is the result of the instructions referred to in any answer to question No. 33, as above. And under those instructions the prices were embodied in the contract with Vallete, which contract is similar in form to those used by the company with other contractors.

35. Does not the contract with Vallete call for itemized prices for different kinds of work, and is not the original proposition for the contract proposed for a wholesale bid without items for the work, and do you make your last answer from what you see on the records of the company, or from your own personal knowledge? (Def't object to the question, the proposition and contract are in writing, and speak for themselves.)

Ans. The contract calls for itemized prices, and the original proposition of Valletes was for a wholesale bid for the work. I make my last answer from my own personal knowledge, because I assisted in determining the prices contained in the contract.

36. Was the work done under the direction of the engineers of the company, and paid for in bonds of the company at the prices specified in the contract?

Ans. The work was done under the direction of Henry C. Moore, the chief engineer of the company, and was paid for in the bonds of the company, so far as there were prices for all of the work, the work for which there was no price specified in the contract was paid for in bonds at fifty cents on the dollar, or the cost price was doubled in the settlement with Mr. Vallete.

37. State whether Mr. Vallette took the ordinary risk of contractors on that work done for the company. (Def't objects, because the contract expresses on its face the terms of the contract, and it speaks for itself.)

Ans. He took the same risk that his sub-contractors did from him. (Answer objected to by def't.)

38. Did his sub-contractors take the ordinary risk of contractors on public works? (Def't objects; ground, irrelevant, and that the contracts speak for themselves.)

Ans. I think they did—can't speak positively without looking at the contracts, but believe they did. (Answer objected to by def't.)

39. Have you in your hands now, or have you had it in your hands to-day, the contract between Vallete and the company?

Ans. I now have it in my hands.

40. Read that contract, and say whether or not Mr. Vallete would not have been liable under that contract to the ordinary risk of contractors on public works. (Def't objects to the question, for that it calls for a question of law, which is the province of the court.)

Ans. I think not. He does not agree to complete said contract by the 1st day of September, 1845, unless the "weather permitting"—that reservation is not common in contracts for public works—never saw it in any before.

41. Does not that contract bind Vallete to complete the work at some period, irrespective of consequences? (Def't objects.)

Ans. Not as I read it.

42. In what respect does it not bind Vallete to complete said work, and why does it not put him under the ordinary risk of contractors? (Def't objects.)

Ans. As I understand this contract Mr. Vallete is not bound to complete the contract until he has good weather to do it in.

43. Did Mr. Vallete complete that work as it could reasonably be done through his sub-contractors? (Objected to by def't.)

Ans. He did.

44. You say that the transaction was regarded as a loan at the time it was made; who regarded it as a loan, and how do you know it was regarded as a loan, and name the persons?

Ans. It was a very current report at the time that the company had got a loan, and assented to by the President of the company, as evidence that he did consider it such, he charged the company, a short time after the transaction, his expenses in going to Cincinnati, to arrange for a loan, the sum of $6.

45. From what individuals did you learn that it was a loan, and name them?

Ans. The best authority I have is the President of the company, Meredith Helm, and Henry Vallete.

46. What authority have you from those two persons, give the particulars, to think it was a loan?

Ans. I have been told by Meredith Helm repeatedly, that it was a loan, and since the bringing of this suit, and I have seen a letter from Henry Vallete in which he so considered it.

47. Were you told by Meredith Helm, before the bringing of this suit that it was a loan? if so, state the time when, and the place where.

Ans. I have been told by him that it was a loan before the bringing of this suit; he never considered it anything else. I can't particularize the time when, nor the place where he has told me; but whenever the subject has been mentioned he has spoken fully about it, and illustrated it by saying that the company had no power to issue those bonds except on a loan.

48. Have you heard him frequently converse on the subject of this contract being a loan?

Ans. I have; and when reproved by stockholders, he replied it was the best thing that the Board could do; that Mr. Vallete was the only man that would take it at that, and he always considered it a bad bargain for Vallete.

49. Name some of the persons that now present when you heard M. Helm make these remarks.

Ans. I can't do it now; it was formerly not a disputed point, and I now do not recollect the names of any.

50. When did you see that letter from Vallete, that called it a loan? and name what that letter states, and describe its contents.

Ans. I saw it in Connersville, Indiana. It states what the bonds are all for one loan of one hundred and twenty-five thousand dollars.

51. Who was that letter directed to, and how did you get to see it? and state the date of that letter, and whether you can produce it.

Ans. It is dated in the year 1845, directed to Meredith Helm, President of the Company. I opened it and read it; I think I can produce it.

52. Is the letter on file in the archives of the office?

Ans. I believe it is.

53. Can you produce that letter? if you can, do so, and make it a part of your answer to this question.

Ans. I don't know whether I can produce it or not; have not seen it for some time.

54. Can you produce a copy of that letter?

Ans. I can, if I can find the original.

55. Produce a copy of that letter, and attach the same to your answer hereto.

Ans. I will not stop now to do it, if I do it at all, I will do it this evening.

Henry Vallette denies that the original letter be shown to the Notary Public, and a copy thereof be made a part of this deposition.

56. You say you opened that letter—when did you open it? and was it since you have been secretary of said company?

Ans. It was since I have been secretary of the company.

57. Have you seen it or read it, within the last six months?

Ans. I have.

57½. When Wm. Vallete made his contract with the company, were you not employed as a sub-engineer by Henry C. Moore? If so, state what salary you received, an what were your duties? (Def'ts objects—irrelevant.)

Ans. I was in the employment of the Canal Company, at that time, as assistant engineer, at a salary of fifty dollars per month; my duties were to work pretty hard, in the capacity in which I was employed.

58. Are you now the collector of the company in Connersville?

Ans. I am.

59. Are you also secretary of the company?

Ans. I am.

60. Do you receive the salaries of both those officers?

Ans. I receive $1,000 00 per annum.

61. Who is the treasurer of the company?

Ans. Lafayette Conwell.

62. Is he the partner and son of the president of the company?

Ans. I never heard it suspicioned otherwise.

63. Do you discharge the duties of treasurer of the company?

Ans. I do not.

64. Do you not receive specific items of salary for discharging the duties of secretary of the company of collection of the company in Connersville, and for treasurer?

Ans. I do not.

65. For what do you receive your salary of one thousand dollars per annum?

Ans. For collecting the tolls at the port of Connersville, and performing the duties of Secretary of the company.

66. You say that the contract of Vallette with the sub-contractors are on file in the office of the company; are those contracts signed by Henry Vallete, and by the different sub-contractors?

Ans. They are.

67. Has Henry Vallete ever made a demand for those contracts with the sub-contractors? if so, state when.

Ans. Never to my knowledge.

68. Have you ever been directed to withhold those contracts from Vallete, if he demanded them? if so, by whom were you so directed not to surrender them, and when was it?

Ans. Never.

69. Do you consider those contracts as belonging to Vallete, as evidence of his engagements with his sub-contractors? (Objected to by def't—irrelevant.)

Ans. I never thought of the subject a moment. I never thought them of any benefit to any body, since the object for which they were intended were accomplished.

70. Are you acquainted with the general character of Meredith Helm?

I have been acquainted with Meredith Helm since 1842.

I am acquainted with his general character.

71. What is the general character of Meredith Helm for truth and veracity—good or bad?

Ans. Good, as far as I know.

72. Would you believe the statements of Meredith Helm under oath?

Ans. I would, unless I know them to be otherwise.

73. You say that the portion of the canal completed by Vallete had never been advertised by the company for letting although it had been the custom of company to advertise all work previous to letting. State if there would have been a probability of the company letting the work for the kind of pay Vallete received, in the condition of the credit of the company at that time, had they if advertised it for a letting.

Ans. I never knew the necessity of offering that kind of pay that Vallete got. The company had, at the time that contract was made with Mr. Vallete, one hundred thousand dollars of available means, consisting of real estate, bills receivable and stock subscriptions, as appears from their report, made July 1st, 1844.

74. Do you believe the company could have let the work for the

kind of pay Vallete received, had they have advertised it for a letting at the time the contract was made with him?

Ans. I don't know, that kind of pay is such as the majority of contractors on public works knew very little about at that time.

75. Were not the stock subscriptions that you have mentioned made payable in ten annual instalments from the time of subscribing, except what was paid in real estate, and was not real estate at that time a difficult article to sell for cash? State how much real estate they had unsold, and whether it was not generally taken at high prices, and what they had on hand unsold was not of a very good description. (Def't objects.)

Ans. The stock subscription were so made, at that time it was more difficult to sell real estate than it now is. They then had forty-five thousand six hundred and fifty-one dollars and sixty-six cents, and $15,911 73 then sold but unpaid for, they then had $32,294 12 of bills receivable on hand. The prices that the real estate was taken at, might have been considered high at that time, it was all appraised by the best men of the county sworn to do their duty; what they had on hand unsold was the last end of the real estate. I don't know how it ranked as to description of quality, of course it was not choice.

76. From what source do you derive the information from, that you gave in your last answer?

Ans. From the records in the office of the company.

77. You say that you have been offered five hundred dollars for a sight at the engineer's estimate previous to a letting on this canal by contractors. State who offered you the five hundred dollars to see the estimates of the engineer, and whether the estimates shown to Vallete previous to his contracting with the company were not shown to him voluntarily. (Def't objects.)

Ans. Cam, Cross, Dodge & Co., offered me $500 for a sight at the engineer estimates. I don't think the estimate were shown to Vallete voluntarily, but I don't recollect whether it was at his suggestion, but they were shown to him for the purpose of assisting him to make out his proposition.

78. If those estimates were not shown to Vallete voluntarily, how did he get to see them, and when you say that you told Vallete that he could get the bonds for fifty cents on the dollar, did it not include on the part of Vallete his taking all the risk of the contract?

Ans. My impression is that he asked to see the estimates and they were shown to him; they may have been made out at his request, don't remember. I don't consider that there was any risk on the division on which he done his work, on some division of the canal there was a good deal of risk, on this division which is on high ground there was no risk.

79. When you told Mr. Vallete that he could get the bonds for fifty cents on the dollar, did it not include in the part of Vallete

the performance on his part of the contract to be made with the company?

Ans. It contemplated his doing the work, finishing the canal.

You said some time ago that where Vallete took his contract from the company, that they had $100,000 of available means, and that you could not see the necessity of letting that work to him for the kind of pay they did; you have also said that at that time the scrip of the company was down to fifty cents on the dollar, that the contractors and laborers had their pockets full of it, and were making thereto, &c. If the company had all these available means at their disposal, why did they not protect their laborers and contractors from the loss growing out of the depreciation of that scrip, and did not the letting of the work to Vallete have the effect to raise the price of that scrip, so as to answer all purposes necessary to the company to complete the work then under contract by the company between Lowell and Connersville? (Defendant objects.)

Ans. The company report at that time on hand, amount due on stock $204,369 85, on real estate sold and unsettled for $15,911 73, and real estate on hand and unsold amounting to $45,651 66, of bills receivable $32,294 12, making an aggregate $98,227 36; on the other hand they had in circulation at that time $28,647 of scrip, leaving a balance in their favor of $269,580 36. If they had been financiers they might have certainly raised the amount necessary to have finished the works. I can't tell why they did not protect the laborers and contractors from the loss gowing out of the depreciation of the scrip. I suppose they did not know how. The letting to Vallete had the effect to raise the scrip to about 65 cents to the dollar, that being the rate at which the company took it at from Henry Vallete in payment of a due bill which they held against him for $1,296.

81. Was not those stock subscriptions unavailable in consequence of the long time, being ten annual instalments in which they were payable to the company, and did not the scrip advance so as to answer the purpose of the company to finish that part of the canal they had under contract by the time Vallete got his work done? (Defendant objects.)

Ans. I don't think the stock subscription was available at par, and the company did complete the work they then had under contract about the time that Vallete finished his.

82. You say that you have examined the records of the company, and can find that only thirty-five of the first issue of bonds to Vallete had been surrendered, and the new issue made therefor was that all the bonds at the time that surrender was made, had Vallete received any more than those thirty-five bonds on his contract?

Ans. No more.

83. Were all the bonds issued to him after that surrender dated on the first of February, 1845?

Ans. They were.

84. You say that you had a conversation with M. Helm, President of the Company, on the 27th of May last, and told him that Vallete was in town, that he made certain inquiries of you, and that his motion for an injunction and receiver had been refused in consequence of its being a loan, and that he told you it was a loan made in good faith at that time, and ought to be paid. Did you make a memorandum at that time in writing of what Mr. Helm said in that conversation?

Ans. I did not. It was a repetition of what I had heard him say so often before that it struck me at the time that he could not be mistaken.

85. Did not Mr. Helm say to you there, simply that it was an honest debt, that it was due Vallete and should be paid as soon as the company was able to do so?

Ans. I have given you his precise language, verbatim, in my former answer, about which there can possibly be no mistake.

86. Is it from casual conversations with Mr. Helm that you have derived from him (I am now speaking of Helm only) the knowledge of the fact that Vallete's contract was a loan, so far as he stated to you?

Ans. I have frequently heard M. Helm speak of the construction of this work as an anomaly in the history of public works, commenced, as I have often heard him say, without money enough to buy the books to do the business with, and carried through to completion, and all done without money.

87. In reference to the tumble walls, which you say have fallen down, on the work done by Vallete, and others that are propped up to keep them from tumbling down, was any demand ever made by the Canal Company to rebuild those tumble walls on those locks, or any demand for damages or account of said tumble walls, before the commencement of this suit? and if so, state when such demands were made. State what you know on this point.

Ans. James Rariden, while he was President, suggested that such demand should be made, but none was ever made my knowledge.

88. Are you a stockholder in this Canal Company, or do you own scrip or bonds of the company?

Ans. I am not a stockholder; I have a ten dollar bond only, dated January 1st, 1848, given for the repair of 1847; have no scrip.

89. Is Sherman Scofield a stockholder and director in this company, and how much stock does he own, and does he own any of the scrip, bonds, or debt of the company; if so, how much?

Ans. He is a director and stockholder; I think he has one hundred and thirty-one shares of $50 per share; I don't know whether he has any scrip or bonds; he may have some of the debt, perhaps $300 or $400 of the debt.

90. State how much stock of the Canal Company is owned by James A. Fay, the attorney of the company in this suit, and whether

with Vallete? (Def't objects, on ground that he asks for opinions, and not facts.)

Henry Vallete suggests that corporations cannot speak except through their officers.

Jas. A. Fay suggests that the rules of evidence are the same in cases of corporations as other parties.

Ans. The canal was finished in the year 1845, under that contract. I can't say definitely whether it would have been finished within two or three years or not, had not the contract been made with Vallette.

109. Did not the contract with Vallette, under which the canal was finished in a letter over a year after it was made, largely increase the income or revenues of the company, which they would not have had if the contract had not been made? (Def't objects.)

Ans. The revenue during the year 1846 amounted to about $25,600; what it would have been if the contract had not been made with Vallete, I do not know.

110. What was the revenue of the canal in 1850, and in 1851, and in 1852, separate and distinct for each year? State also, as far as you can from the records as other means that you have of knowing how many months the navigation of the canal was suspended in the year 1847, how many months it was suspended in 1848, and how long the navigation was suspended in the year 1847.

Ans. The revenue of the canal in 1850 was $37,717 30; in 1851, it was $41,574 98; in 1852, it was $49,661 20. In the year 1847 it was suspended ten and a half months. In 1848 it was suspended at least six months, and perhaps more; I can't say how long the canal was suspended in 1849 without looking at the records.

111. In the sums given at the revenues of the canal, were the water-rents included?

Ans. They were.

112. Did Vallete meet the Board of Directors in January last, and offer to sell his bonds to them at fifty cents on the dollar? (Def't objects.)

Ans. Vallete was present at a meeting of the Board on the 29th day of January, 1855. I believe I did not hear any such offer made. Some member of the Board addressed him a note at that time, asking him for a proposition for the sale of his bonds; but I can't say now what reply was returned, because I have forgotten. (Def't objects to answer.)

113. Did not Mr. Vallete on that occasion offer to sell his bonds for fifty cents on the dollar, and was not the proposition discussed by the Board of Directors then? (I do not ask you to answer what you heard Mr. Vallette do, or offer, or say), but I ask you to answer whether you do not know or believe that such a proposition was made by Vallete to sell the bonds at fifty cents on the dollar—that it was discussed by the Board of Directors in session, and a proposition made to Vallete by the Directors, that they would try to raise

a company, if they could do so within thirty days, to purchase the bonds then owned by Vallete at fifty cents on the dollar, provided he would sell the back interest then due on the bonds at the same price he sold the bond. (Def't objects as irrelevant and immaterial, and as calling for what a writing contains. Vallete says that he has no writing.)

Ans. He never made such an offer in my presence, and no such proposition was ever discussed by the Board while in session. I heard one of the members of the Board say that he had made a proposition to Vallete that if he would take $45,000 for his bonds and interest, and give him thirty days' time to canvass the Valley, he would see if a company could not be made up to take them at that price. I don't believe he did, because, in a subsequent conversation with Mr. Vallete, I asked him if Mr. West had not made him a proposition, and why he did not accept it? He replied that there was nothing definite in West's proposition, and he did not suppose Mr. West was in earnest; he supposed that he wanted by that operation to gain time, and put him off with the understanding that they would do something. He further said that if they had offered him fifty cents on the dollar unconditionally, he would have taken it, as he knew where he could make a better investment. (Def't objects to answer.)

114. If the proposition to purchase Vallete bonds was not discussed by the Directors in session, was it not discussed out of session by several of them—I mean, to purchase the bonds at fifty cents on the dollar?

Ans. C. W. West spoke of buying the bonds of Vallete, and remarked that he had requested a proposition from Vallete and said that he had told him in note that if he would take $45,000 for his bonds and interest, that he would try and find purchasers, and asked some of the members of the Board if they would not take some of the bonds, and make a list himself of those that were present, and put down a list of the names and amount which he supposed each one would take. (Def't objects to question and answer above.)

115. Was the list referred to, made by C. W. West, made in the presence of the parties whose names were put down. (Def't objects.)

Ans. Some were present and some were not.

116. Was the interest on Vallete's bonds, I mean the arrearages due in 1848, paid up, and was the interest due in 1851 and 1852 paid promptly as it became due, previous to the flood of 1852?

Ans. The arrearages of interest on his bonds due in 1848 was paid up. The interest of 1851 and 1852 was paid promptly as it became due.

117. Was part of the interest due in February, 1853, paid in advance in the latter part of the year 1852?

Ans. It was.

118. You say contractors told you that Vallette waived his lien in 1852, to aid the canal, do you think it was necessary that Vallete

should have waived his lien to repair the canal, and did not the Directors of the Company for seven years previous, by conversation with people along the line of the canal and the country about it, do all they could to prejudice the community against Mr. Vallette's bonds, because they were supposed to be a lien on the canal? (Def't objects—irrelevant and immaterial.)

Ans. The contractors that I have heard speak of it required that guarantee of him before they would commence their work. I cannot say that the Directors of the company, by conversation, did do anything to prejudice the community against Vallete's bonds on account of their being a lien on the canal. It was the opinion of Mr. Rariden, in 1853, when he was President of the Company, that the bonds were illegal, and that they would not stand the test of a judicial investigation.

119. How long was Jas. Rariden Pres't of the company in 1853?

Ans. He was elected at the annual election in January, 1853, and resigned at the time that he sold his stock during the spring or summer of that year, when he was no longer eligible.

120. How much did he get for the stock, how much did he sell, and who purchased it? (Def't objects.)

Ans. He sold four hundred shares to J. G. Banes at ten dollars per share, which shares were fifty dollars each; he sold it in the spring of 1853.

121. Did the community generally along the line of the canal, after the injunction was granted by Judge McLean in 1847, consider Vallete's bonds a lien on the canal or its revenues, then in operation, while the interest on said bond was unpaid? (Def't objects—irrelevant, immaterial, and illegitimate.)

Ans. I cannot answer that question.

122. Why can you not answer it? (Def't objects.)

Ans. Because I don't know what the feeling of the community was at that time on that subject.

123. From your intercourse with the community in connection with the business done at the canal office by them, through you and the canal office by them, through you and the Directors, have you reason to believe that the community for many years past considered Vallete's bonds a lien upon the canal and the effects of the company? (Def't objects.)

Ans. A portion of the community did so regard them so far as I know, and a portion did not. (Def't objects to ans.)

124. State from matters contained in the previous question, whether it was not generally understood by the community, whose interests were connected with the canal, that Vallete claimed for his bond a preference over any debt that might be made by the Canal Company after the issue of said bonds to him? (Def't objects.)

Ans. Those who knew anything about it, I presume did.

125. Was it not pretty generally known in the company had issued

bonds to Vallete for which he claimed a preference over all debts subsequently made? (Def'ts object.)

Ans. It was generally understood to be the case; I don't know how extensively.

126. Was not the weather very favorable for making the canal during the time work was being done under Vallette contract? (Defts object.)

Ans. I believe it was.

127. Were not provisions and labor cheap and easy to be had while that work was progressing under Vallette's contract? (Def'ts objects.)

Ans. Labor was plenty and cheap and provisions were low.

128. What was the price of labor per month for a good hand? (Def't objects.)

Ans. A DOUBLE BREASTED IRISHMAN could be hired for eight dollars per month. Flour was three dollars per barrel.

129. Were not sub-contractors irresponsible in those days, and did they not generally abandon work when it was apparent that they had made a bad bargain, or would probably meet with losses on their job? (Def't objects.)

Ans. Some were irresponsible and some were the best men in the country; all contractors have the privilege of abandoning their work by forfeiting the amount retained as a penalty. But at the time this canal was being contracted, in consequence of the abundance and cheapness of labor and provisions, it was very easy to do the work, and I don't now remember of any abandonments on the whole line.

130. Had there have been a sudden rise in provisions from failure in the crops or other causes, and had the weather been unfavorable to doing the work, or had circumstances generally operated against the work, would it not have cost Mr. Vallete considerable more than it did to perform that contract with the Company? (Def'ts object.)

Ans. Mr. Vallete let the work on the 10th day of August, 1844. I don't know of any causes that could have occurred after that letting to sub-contractors that could affect the cost to him one way or the other.

135. What was the amount retained as a penalty from Vallette's sub-contractors to insure their doing the work they undertook?

Ans. I believe it was ten per centum.

136. Had one of the floods similar to those two that occurred in 1847 taken place while Vallette was progressing with his contract, would it not, situated as the affairs of the Company, and made Vallette's contract a most disastrous one to him? (Def't objects.)

Ans. I don't think that anything in the shape of a flood could break down this Company—it has been three times laid in ruins, and it has arisen, Phœnix like, from its ruins—and the work is now absolutely worth double the money it ever was before, because all its mechanical structures that would admit of enlargement, have been enlarged, few of the dams have been doubled in length, and I believe the work will now sustain a freshet equal to any that it has ever had, with a

very trifling injury. (H. Vallettes objects to the answer because it contains matter not asked for in the question.)

137. What was the condition of the credit of the Company in 1846, after the canal was finished, and before the flood had damaged it? (Def't objects.)

Ans. It was good for any ordinary amount.

138. Did people at that time have any appurtenances that the canal stock and debts would not be very good?

Ans. I never heard any expressed. (Def't objects to question above.)

139. You say the credit of the Company was very good in 1846 for any ordinary amount, and has risen, Phœnix-like, several times from ruin. Did not the finishing of the canal in the contract made with Vallette demonstrate to the community the importance of the work, and make it thereafter a necessity to them, and did not these things give power to the Company thereafter to sustain the canal to this time against all the misfortunes which have overtaken it? (Def't objects by way of contract.)

Ans. That the community were aware of the importance of the work is evidenced by their coming forward and rebuilding it at three several times. How far Mr. Vallette's contract gave them the power to do it, I am not able to say.

140. Did they repair it, or did they rebuild it; and if they repaired it, was it not because the value of their lands and crops and other property would have been seriously diminished had it not have been repaired? I speak of the canal and the community. (Def't objects.)

Ans. Much of it has been rebuilt. It undoubtedly was their interest to repair it.

141. After the flood in December, 1852, did not the Board of Directors first propose as a measure to repair the canal that the public should make donations to them for that purpose, and issue printed circulars for subscriptions for such donations?

Ans. They did issue such printer's circulars.

142. Under whose Presidency was that done?

Ans. James Rariden was President of the canal when that was done.

143. Was it not complained of at the time by many persons as an attempt to extort money without a consideration?

Ans. I never heard any such complaints made.

144. What was the reason that they acquired donations to be made to repair the canal, and was that not done before the assignment that you speak of was made to Richard Tyner of its future tolls and water rents as security to persons who loaned money to repair the canal? (Def't objects.)

Ans. It was represented to the Board of Directors at their first session after the flood, that the people of the country would donate a large amount of money to repair the work, and the Directors

wanted all the money they could get from such sources; they therefore accepted the proposition; it was previous to the pledging of the revenue and appointment of a receiver, or about that time.

145. How much money was there donated by the community to repair the canal?

Ans. The donations of that year were about thirty-five hundred dollars, a portion of which was in the debts of the Company.

146. Was not a majority of it in the debts of the company?

Ans. No, sir.

147. Was not the proposal for donations made by the board an unpopular measure, and was it not the cause of some of the directors being bought out; that is, their stock, that they might be removed from the board? (Def't objects.)

Ans. I think the proposal for donations was an unpopular measure. I can't say that it was the cause of any of the director's stock being bought out, that they might be removed from the board. Jenks G. Banes bought all the stock that was at that time bought of any of the directors on speculations.

148. Do not the books of the company show that large amounts of stock was purchased by C. W. West, and A. B. Conwell, present directors of the board, in the early part of the year 1853, or before the canal was repaired that year, and state how much stock was transferred to their names, and whether it was bought on speculation, or to relieve the board from the presence of members who had made themselves unpopular by proposing that the canal should repaired by donations from the public? (Def't objects.)

Ans. The books show that C. W. West was the owner of two shares at the commencement of the year 1853; they also show that he purchased stock during that year, and 1854, to the amount of about eleven hundred shares, none of which was purchased of the former directors. A. B. Conwell bought none. It was bought on speculation, and in small parcels. I believe there is not on the transfer book of the company a transfer to A. B. Conwell or Sons during the year 1853.

149. Is C. W. West a member of the board at this time?

Ans. He is.

150. State what other persons members of the board at this time had stock transferred to them in 1852? (Def't objects.)

Ans. Richard Walker, and Orville Gordon.

151. Does the books of the company show that Richard Walker acted as director in 1853, and how much stock was transferred to him and Orville Gordon that year? (Def't objects.)

Ans. The books of the company do show that Richard Walker acted as director in 1853—461 shares was transferred to Walker, and 100 to Gordon, $50 each.

152. Did they purchase it on speculation, or did they purchase it to get Jas. Rariden and others off the Board of Directors, whom they thought had injured the reputation of the board by requiring

the public to make donations to repair the canal? (Defendant objects.)

It is my impression that they purchased it on speculation.

153. Do the books of the company show that Richard Walker acted as director of the company in 1854, or in 1855?

Ans. They do; they show that he was elected at the annual election in 1854 and 1855, and was present at one meeting of the board in 1855, and attended regularly in 1854. They also show that Orville Gordon acted as a director in 1854 and 1855.

Re-examination.

1. Was Mr. Walker qualified after the election of 1855 as director?

Ans. I cannot say positively whether he qualified or not.

2. Did C. W. West sell out a large portion of his stock during the year 1854?

Ans. He did; he sold all but 141 shares.

3. From your information, had such a flood as occurred twice in 1847, ever been known in the country previous thereto?

Ans. I have heard old residents of the country say that they never knew of such floods.

4. When was the canal completed to, or near Connersville?

Ans. In 1844.

6. What was the express for the year 1844 for the repairs of the canal?

Ans. Eleven thousand eight hundred and seven dollars and thirty-seven cents ($11,807 37).

7. What was the cost of the repair of the canal, and the expenses of the company for the year 1846?

Ans. $26,329 19.

8. What was the cost of the repair of the canal and the expense of the company for the years 1850 and 1851, respectively?

Ans. In 1850, it was $17,829 89, in 1851, $15,987 71.

9. Mr. Vallette asks you if the canal would have been finished in two or three years; if the contract with him had not been made, would it not have been far better for the company and all interested in the canal, if the transaction between him and the company had never been entered into? (Plaintiff objects as leading and asking for that which he knows nothing about?)

Ans. It would.

10. What risks did Mr. Vallette incur that you know of in relation to his contract?

Ans. I don't know of any risks.

11. What do you mean by saying the company allowed Mr. Vallete 65 cents to the dollar for the scrip of the company in the payment of a note by him to the company of some $1200, or thereabouts, and when was it, as near as you can state? (Pl'ff objects.)

Ans. I mean that the company held Mr. Vallete's due bill for $1,296, payable in canal scrip, which they applied to the interest due 1st Feb'y, 1846, on $116,000 in bonds, at 65 cents to the dollar, making the note worth eight hundred and forty-two dollars and forty cents. This was in January, 1846. (Pl'tiff objects to answer.)

12. Mr. Vallette asks you if there was other expense, other than the final estimate stated by you in your examination in chief, made to the sub-contractors? Does that final estimate include materials and work for that portion of the canal on which they are made, or what other expense was there?

Ans. I know of no expense not included in the final estimates spoken of, except Vallette's personal expenses, and of course they must have been something. The final estimates are full and complete, exhibiting every yard of work and material used.

Henry Vallette here and now asks that the witness furnish a copy of the final estimate, and make it a part of this answer, or of this deposition. B. F. Claypool, Notary, December 20th, 1855. The further taking of this deposition is adjourned until Saturday morning at 8 o'clock A. M. of December 22d, 1855.

Now at this day, to wit, December 22d, 1855, at 10 o'clock A. M., same parties appeared as before, and the further taking of this depositions was resumed.

13. What was the date of the issue of the bonds surrendered, and how many issues were there at that time?

Ans. Twelve of them were dated 29 October, 1844, and the remaining 23 were dated January 6th, 1845. There was two issues.

14. Are those dates the time the bonds were issued?

Ans. Those are the dates of the issues of the bonds.

15. When you told Mr. Vallette that he could obtain the bonds of the company at fifty cents on the dollar, was it before or after he had made an arrangement with the company for them?

Ans. It was previous to his proposition being submitted, or about that time.

16. Mr. Vallette asks you if, when you told him he could get the bonds at fifty cents on the dollar, it did not include the performance of his contract? Were not the prices and the place of the contract an arrangement or device to obtain the bonds at fifty cents on the dollar? (Pl'tiff objects to the question.)

Ans. The whole thing was made with reference to that. I have Mr. Vallette's figures made at that time.

Here Mr. Vallette demand that the original paper containing those figures be produced, and made a part of this deposition. B. F. Claypool, N. P.

17. Is it customary for sub-contract to be filed or deposited in the office of the company, and do you know of any instance in which it was done other this of Mr. Vallette's? (Pl'tiff objects to question, as calling for original matter which should have been brought out in the examination in chief.)

Ans. It is customary for each contracting party to retain a copy of their contract. I never knew of any sub-contracts being kept in the office except Mr. Vallette.

18. Is it customary for the estimates made to sub-contractors to be filed in the office of the company, and do you know of any instance in which this was done other than in the case of Mr. Vallette? (Pl'tiff objects.)

Ans. The accounts with all contracting parties only are kept by the engineer, and the estimates are made to them. It is not customary to make estimates to sub-contractors, and they settle with their sub-contractors according to their contract. The company don't make estimates to parties with whom they have no contracts, and I don't know of any other instance in which estimates to sub-contractors were filed. (Pl'ff objects to the answer, because it leaves an impression that the company made estimates to Vallette's sub-contractors, when there is no testimony that such was the fact.)

19. By whom was their estimates to the sub-contractors of Vallette's made?

Ans. By Henry C. Moore, the chief engineer of the company. (Pl'tiff objects to above question, because it calls for original matter.)

20. Did H. C. Moore, the engineer of the company, make out any estimates to sub-contractors on this canal in any other instance than above stated, or did he, as such officer, take any notice whatever of any sub-contract other than those of Vallette's? (Pl'tiff objects, because it is original.)

Ans. In making estimates, the custom of the chief engineer was to make estimates to those who held contracts from the company or their assignee, and to none others. I don't now know of any other instance when estimates were made to sub-contractors. There has been a good deal of work done under contracts which have been assigned with the consent of the company, and in such cases the sub-contractors have been recognized as original contractors, and in no other cases. I think said engineer did not take any notice of any sub-contract other than those of Vallette's.

21. By whom was the money on these sub-contracts paid out, and what office did he hold in the company at the time? (Pl't'ff objects because original.)

Ans. The money was paid out by Henry Goodlander, who was at that time Treasurer of the Company.

22. On what day of the week did the Board meet in July, 1844, when Mr. Vallette's original proposition was made? (Pl't'ff objects on ground that it is original.)

Ans. They met on Monday, the 1st day of July, 1844.

23. On what day was the proposition made? (Pl't'ff objects—original.)

Ans. On Tuesday, the 2d day of July, 1844.

24. Does the records show the presentation of the proposition, its acceptance, and the report of the contract, as drawn up between

the parties in immediate connection with each other? (Pl't'ff objects—original.)

Ans. They do.

25. How long would it have taken to make out their contracts? (Pl't'ff objects—original.)

Ans. It would have taken at least one day.

26. Does the record show that they were reported to the Board and entered into on the forenoon of the second day of the session of the Board? (Objected to by pl't'ff—original.)

Ans. They do.

27. Did Mr. Vallette furnish any materials other than what the Canal Company let him have, and what was the amount of them, and in what did he pay the company for the same, and did these materials enter into the estimates made to the sub-contractors, and were they charged therefor? (Pl't'ff objects, as calling for original matter and irrelevant.)

Ans. Mr. Vallette furnished no materials except the IRON and CEMENT, and that the company had on hand, and they let him have them; they amounted to *thirty-seven hundred and seventy-eight* dollars and *forty cents*. He paid the company in canal scrip and the due bill for $1296, heretofore mentioned. These materials entered into the estimates made to the sub-contractors, and they were charged therefor.

28. Does the amount of $53,828 46¾, the final estimate made to the sub-contractor, express the amount paid to those sub-contractors without deducting the charge for materials furnished? (Pl't'ff objects.)

Ans. That sum was the final estimate, and includes the cost of labor and materials of every kind, without any deductions.

29. Was deduction made from that sum on account of material furnished? (Pl't'ff objects—original.)

Ans. There was deductions made from all those contracts that used iron and cement.

30. At what price per pound did the company charge Vallette for iron payable in scrip, and what sum did they allow him for the same back again? (Pl't'ff objects—original.)

Ans. They charged him ten cents per pound for iron, and gave him eighteen (18) cents per pound for the same iron.

31. Was any proposition made by the directors at any of them as such to Mr. Vallette, in relation to his bonds in January last, or did you understand that Mr. Vallette made any proposition to the company or any of the directors as such for the sale or purchase of his bond at any price? (Pl't'ff objects.)

Ans. I saw no proposition made to the company or any of the directors as such by Mr. Vallette. The Board passed no order relative to the purchase of his bonds at any price. What C. W. West may have done in relation to making a proposition I don't know personally anything about it, but heard C. W. West say that if he

would take $45,000 for his bonds and interest, and give him thirty days to canvass the valley, he would see if he could not find purchasers, and Vallette afterwards told me that the reason that he did not take that proposition was that it was conditional; there was nothing certain about it.

W. E. LAWRENCE.

December 22d, 1855, the further taking of this deposition is adjourned until Monday morning next, December 24, 1855, at 8 o'clock A. M.

December 24th, 1855, 8 o'clock A. M. Jas. A. Fay, att'y for respondent, and Henry Vallette, in person, appeared, and the further taking of those deposition was resumed.

Henry Pierce, of lawful age, appeared, and was duly sworn, and testified as follows:—

1. When do you reside, Mr. Pierce?

Ans. I reside at Laurel, Franklin Co., Ind.

2. How long have you resided there?

Ans. I have lived there since the fall of 1842, except some two and a half years.

3. State what conversation you had, if any, in the last of July, 1845, with Henry Vallette, and on what occasion.

Ans. About the 23d of July, 1845, I was in the canal office in this town, and having business in Cincinnati, Dr. Tupper, then Secretary of the Canal Company, requested me to deliver a roll of bonds to Henry Vallette, in Cincinnati, which I did. In the course of conversation had with Mr. Vallette, in his office in Cincinnati, he stated to me that the actual amount of cash loaned the company was fifty-six thousand dollars, for which he had received, or was to receive, one hundred and fifteen thousand dollars, in the bonds of this company.

4. State whether the bonds you had delivered to said Vallette had reference to the subject of the conversation, and were a portion of the bonds mentioned by him.

Ans. Well, they were a portion of the bonds, and were in reference to the conversation. The bonds were opened in my presence.

Henry Vallette declines to cross-examination the witness.

HENRY PIERCE.

December 24th, 1855. The further taking of this deposition was continued until to-morrow morning, at 8 o'clock of December 25th, 1855.

December 25th, 1855, 10 o'clock A. M. Jas. A. Fay, att'y for defendant, and Henry Vallete, in person appeared, and the further taking of this deposition was resumed; Newton Claypool, of lawful age, being first by the undersigned duly sworn according to law, deposed as follows:—

1. Where do you reside?

Ans. About ¾ of a mile north of Connersville.

2. How long have you resided in Connersville, and in the vicinity thereof?

Ans. Ever since April, 1817.

3. State whether you had any conversation with Meredith Helm, in the store of A. J. Claypool & Co., in this town, in July last, or last summer, in relation to the transaction of Henry Vallette with the White Water Valley Canal Company; if so, state what it was.

Ans. About July last, I had a conversation with M. Helm, in the presence of others, in the store of A. J. Claypool & Co., in this town, in relation to that matter; during said conversation, Helm, in talking of this contract or loan, he said, as near as I can recollect, that he regarded it as a contract and a loan, both in its effects. I understood him to mean that its effect upon the parties was both a loan and a contract.

4. State what he said about the inability of the company to issue bonds of the character issued to Vallette, except in case of a loan made to the company.

Ans. He said, as I understood him, that they got the power to borrow money under a particular section of the charter, if he named the section, it was section 18; but I am not certain that he named it; then he went on to tell why he regarded it as a loan and a contract, but he said it certainly was a contract, for so fast as the work progressed they paid Vallette in the bonds. His conversation seemed to be, to convey the idea to me and others that the transaction was both a loan and a contract in its effect upon the parties.

5. Did he say anything about the company being unable to issue such bonds as those in question, except upon a loan to the company?

Ans. I don't know that he did.

6. Do you recollect all the persons that were present at that conversation? if so, name them.

Ans. I know Sherman Scofield was present, and I think A. J. Claypool was present, and perhaps one or two others. Can't call their names.

7. Do you recollect what he stated in regard to H. Vallette having desired him to make an affidavit in this case?

Ans. I don't recollect that he said anything about it.

Cross-examination.

1. Is Shurman Scofield, who was present at that conversation, at present a Director of the Canal Company?

Ans. I understand he is.

2. Was there not an excited conversation, at that time, between M. Helm and Sherman Scofield, amounting almost or quite to an argument, respecting the merits of the suit in this case?

Ans. The suit was mentioned. I think Helm seemed pretty cool. Scofield always talks like was excited when he is in earnest. I don't

know whether he was excited or not at that time. It seemed to me that the conversation was brought on by them in consequence of this suit. Scofield was speaking in favor of the company in reference to this suit.

3. Are you acquainted with Meredith Helm? if so, how long have you been so?

Ans. Since 1818 I have been acquainted with him.

4. What is the general character of Meredith Helm in this community, good or bad?

Ans. It is as good as any man's in the community, as far as I know.

5. What is his general character for truth and veracity?

Ans. It is very good.

6. Would he be generally believed under oath, or would you believe him under?

Ans. Yes, he would be generally believed under oath. I would.

7. Were you a member of the General Assembly of Indiana in the session of 1844 and 5?

Ans. I think I was.

8. Was there a bill passed by the legislature at that session to legalize certain bonds issued by the W. W. Valley Canal Company to Henry Vallette intrusted to your care that session, or did you assist in procuring the passage of such a bill for the benefit of the W. W. Valley Canal Company to aid them in carrying out the contract made with Henry Vallette to finish the canal? (Def't objects.)

Ans. I was there when a bill passed to legalize certain bonds issued to Vallette which I thought was to legalize the interest on the bonds. I don't recollect whether the bill was entrusted to my care or not, but recollect that I assisted in procuring its passage.

9. Did the W. W. Valley Canal Company, or their attorney, or any of their Directors, request you to support that bill, or was it supported by you with an understanding and belief that it would promote the interest of the W. W. Valley Canal Company, and aid them in getting their canal finished? (Deft's objects.)

Ans. I don't recollect that the company, or att'y, or Directors, ever requested me to support it. It was supported for that purpose by me with the understanding that it would promote the interest of the company and aid them to finish the canal.

10. Was the finishing of the canal at that time believed by the community generally to be a matter of great public importance to promote their interest? (Def't objects.)

Ans. I thought it of great importance to have the canal finished, and think others thought so. Am satisfied a majority thought it of public importance.

11. Have the community generally understood that the bond issued to Vallette by the Canal Company were a lien upon the revenues of that work until paid? (Def't objects.)

Ans. I think that was the first impression, but recently there is a different opinion as to what claims should be first paid.

12. Has this difference of opinion arisen since the commencement of this suit, and when the bonds were issued by said company, and for some time thereafter were they not considered by the community a lien on the work? (Def't objects.)

Ans. I have heard this difference of opinion prior to the commencement of this suit; some contended that the assessment claims on the stock, that were levied after the freshets, should be a lien equal to the bond issued to Vallette. I understood that the people generally thought the bonds issued to Vallette were a lien upon the canal at the time they were issued.

Re-examination.

1. In conversation referred to of M. Helm you were asked if there was not an excited conversation. I ask you if M. Helm did not do the principle part of the conversation?

Ans. I think there was very little difference in the part taken by Scofield & Helm. Helm may have talked the most.

2. Did you regard Scofield at all excited in the conversation?

Ans. I did not. He felt interested.

3. Did it appear to be the aim of Schofield to ascertain the true understanding of M. Helm in regard to the transaction between Vallette and the Canal Company, and did it appear to be M. Helm's object in that conversation to give his views of what the transaction was? (Objected to because leading to an answer from the witness direct.)

Ans. I can't say what his object was, but thought they were both trying to show up what they knew about it. I think Helm's object in that conversation was to give his views of the transaction.

4. Did Mr. Helm give any other reason for its being a contract, other than that the bonds were paid out as the work progressed?

Ans. I don't recollect that he did. I was not paying a great deal of attention to the conversation, felt but little interest about it.

5. Did you pay attention enough to understand what was said and meant by the parties in or during the conversation?

Ans. I did.

6. You were asked if the community regarded the bonds in question a lien upon the work at the work they were issued, were there not many in the community that thought the transaction with Mr. Vallette was one that never ought to have been made by the company, and that it had proved injurious to the stockholders, of the company?

Ans. I don't think there was many, there were a very few that thought the transaction ought not to have been made; the community did not, nor do not regard it as having proved injurious to the stockholders.

7. In speaking of the community, do you form your own opinion

from expressions heard from parties interested, or is it an opinion adopted and formed in your own mind, without any estimate of the known declarations of parties interested?

Ans. I form my opinion from conversations with community and my own opinions upon the subject.

8. Was Mr. Vallette attending the Legislature of 1844-5 (the time above spoken of) of Indiana, soliciting the passage of the act referred to by him in his question to you?

Ans. I have no distinct recollection of his soliciting the passage of the act. I think he was there.

NEWTON CLAYPOOL.

INDIANA DISTRICT, *ss.*

I, Horace Bassett, Clerk of the United States Circuit Court for the Seventh Circuit and District of Indiana, do certify the above and foregoing to be a true and complete transcript of the record in the above entitled case, together with a correct copy of the despositions and exhibits, read on the trial of said cause, together with the Appeal Bond and the Writ of Error, and also the costs of this appeal, taxed and allowed by the Court, at one hundred and fifty nine dollars and eleven cents.

The citation hereto attached.

In testimony whereof, I have hereto set my hand and affixed seal of said Court, at Indianapolis, this 10th day of September, in the year of our Lord one thousand eight hundred and fifty seven.

[SEAL.]

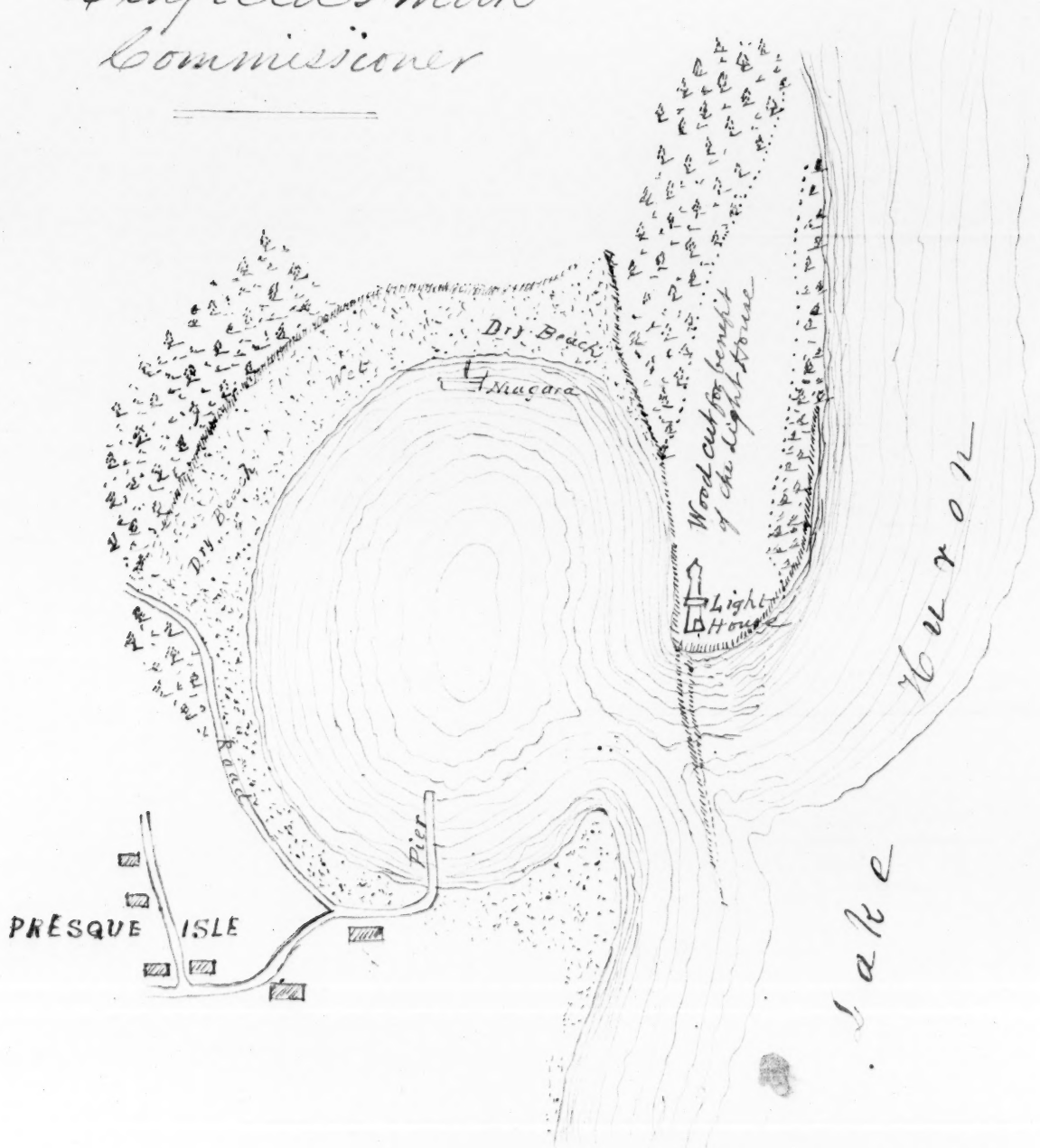
HORACE BASSETT,
Clerk.

No. 160. INDIANA C. C. U. S.

WHITE WATER CANAL COMPANY, P. E.
vs.
HENRY VALLETTE.

Filed 21st November 1857.

Diagram A.
Winfield Smith
Commissioner

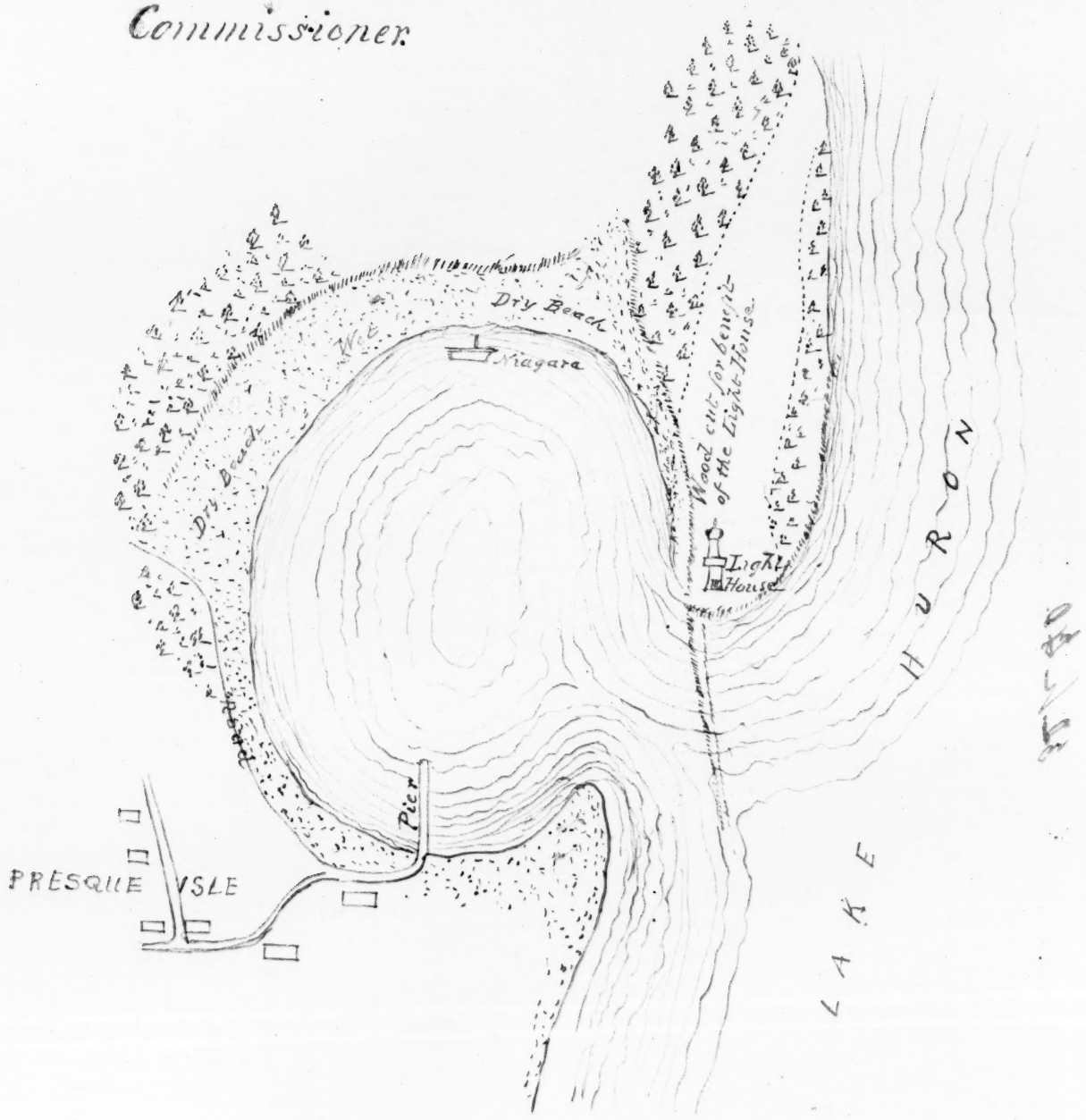


No. 4. page 64.

No 165 pa. 44.

DIAGRAM A

Winfield Smith
Commissioner.



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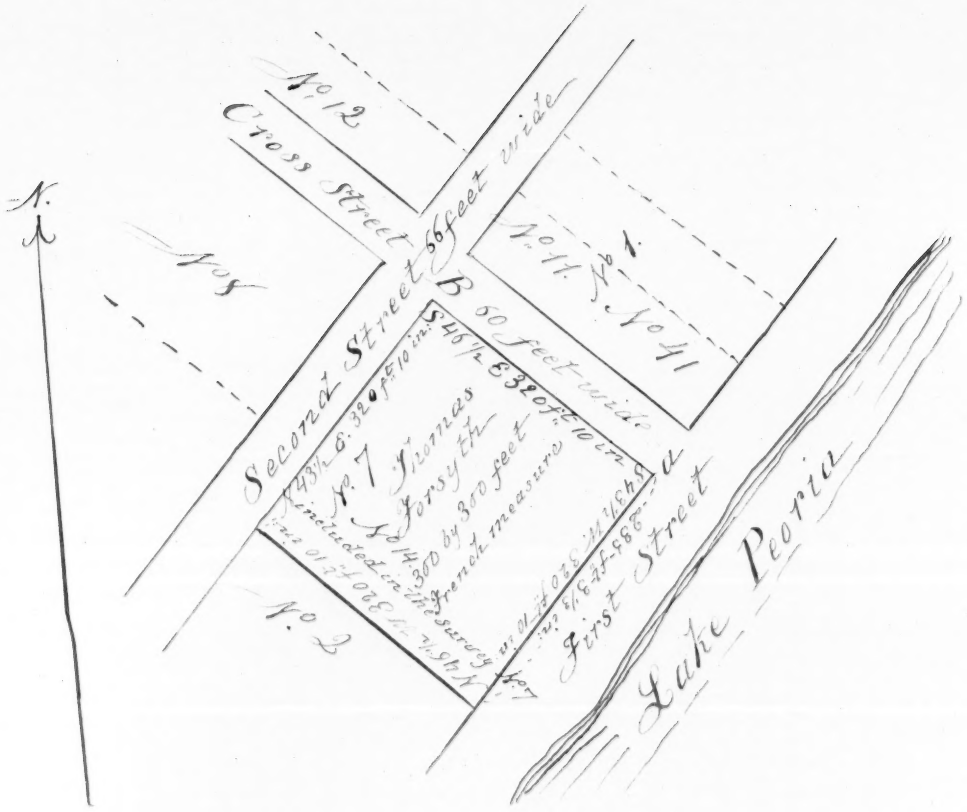
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No. 41
Second Street B 60 feet wide
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No. 7
Thomas Forsyth
No. 14
300 by 300 feet
French measure
No. 2
First Street
Lake Peoria

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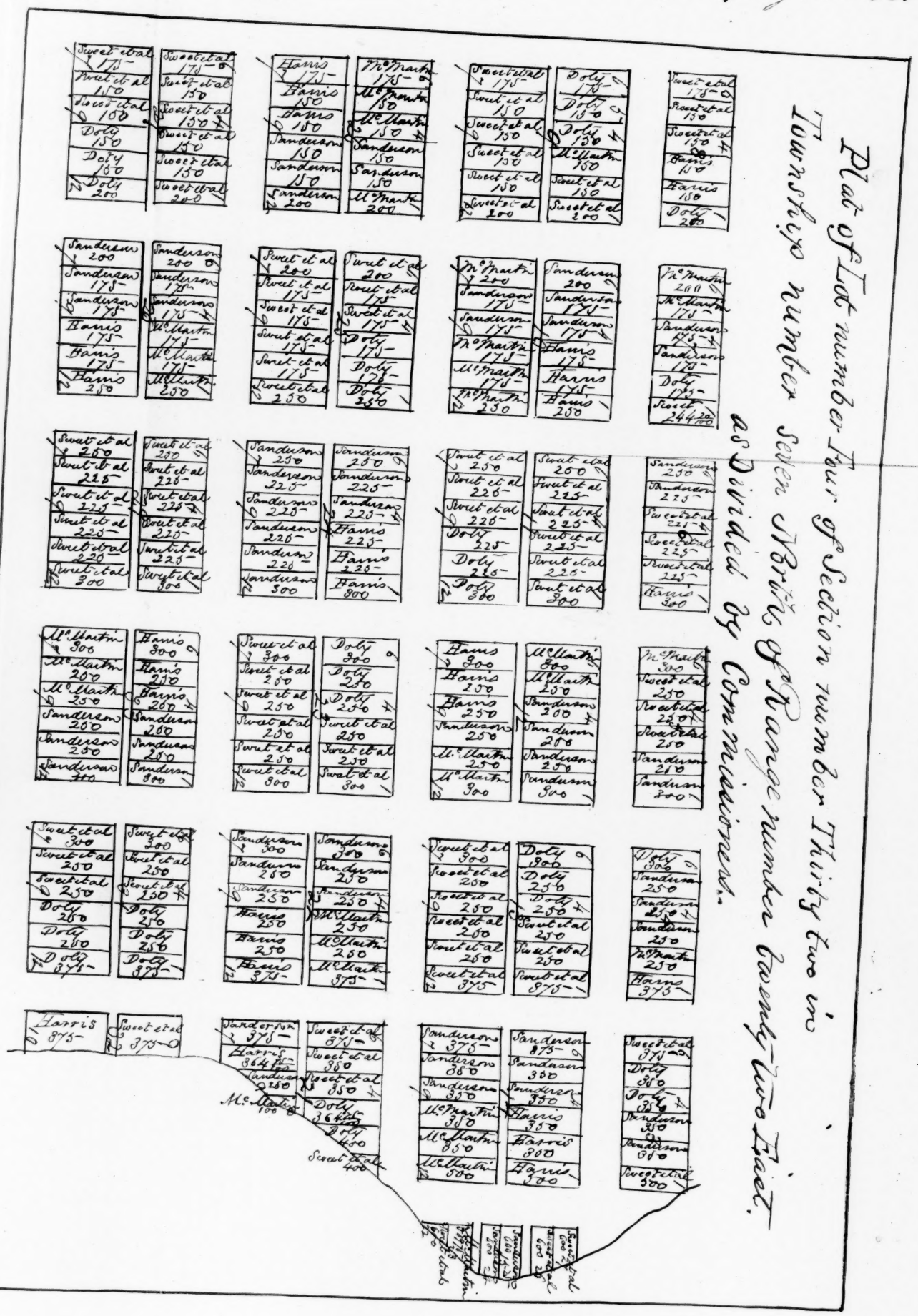
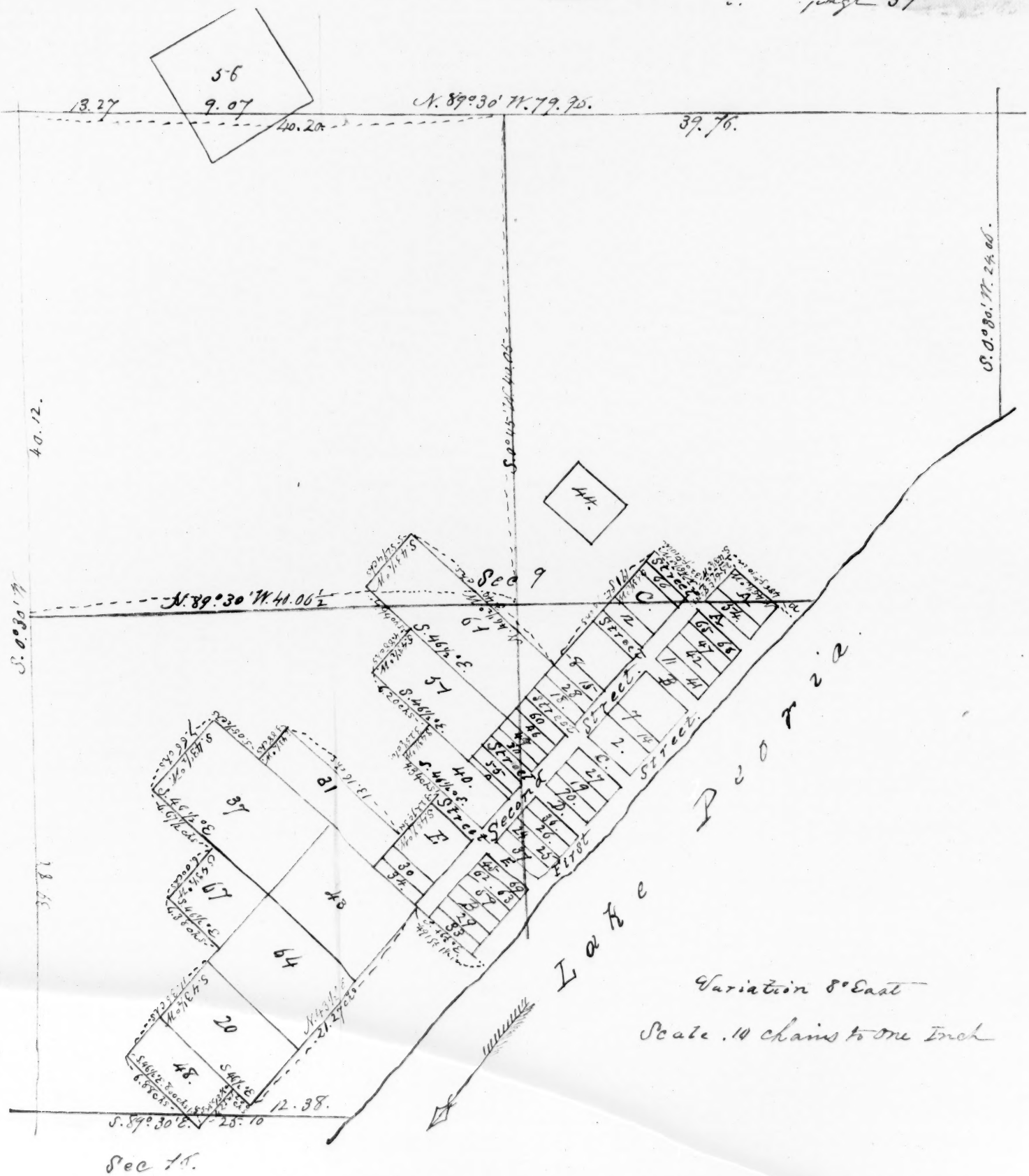
39.76
Sec 9
N 89°30' W 40.05
Lake Peoria
S. 89°30' E. 25.10
Sec. 16

Plat referred to in Exhibit F.

No 75 - Page ~~56~~ 35.

Plat of Lot number four of Section number Thirty two in Township number Seven North of Range number twenty two East as Divided by Commissioners.

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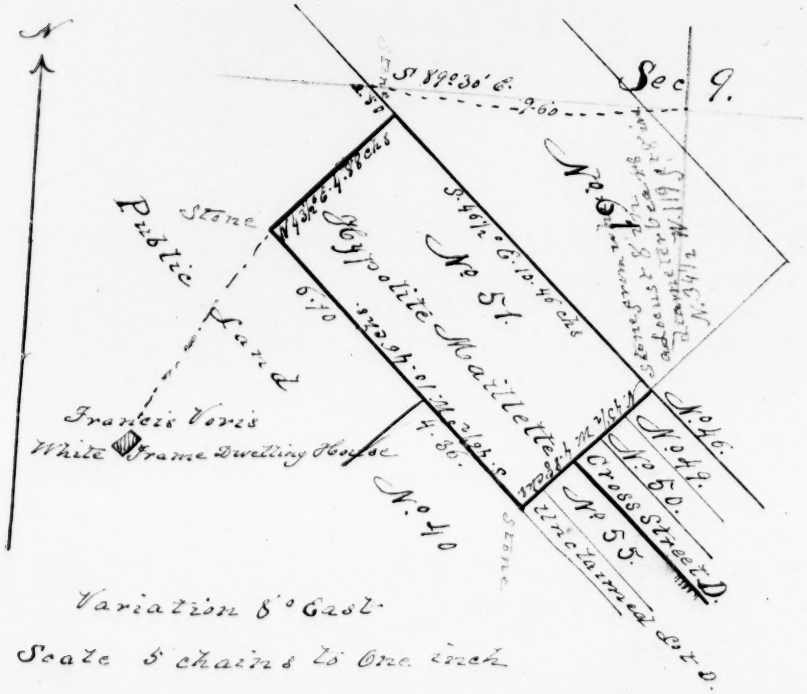
L. 33.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Francis Voris
White Frame Dwelling House
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Variation 8° East
Scale 5 chains to One inch

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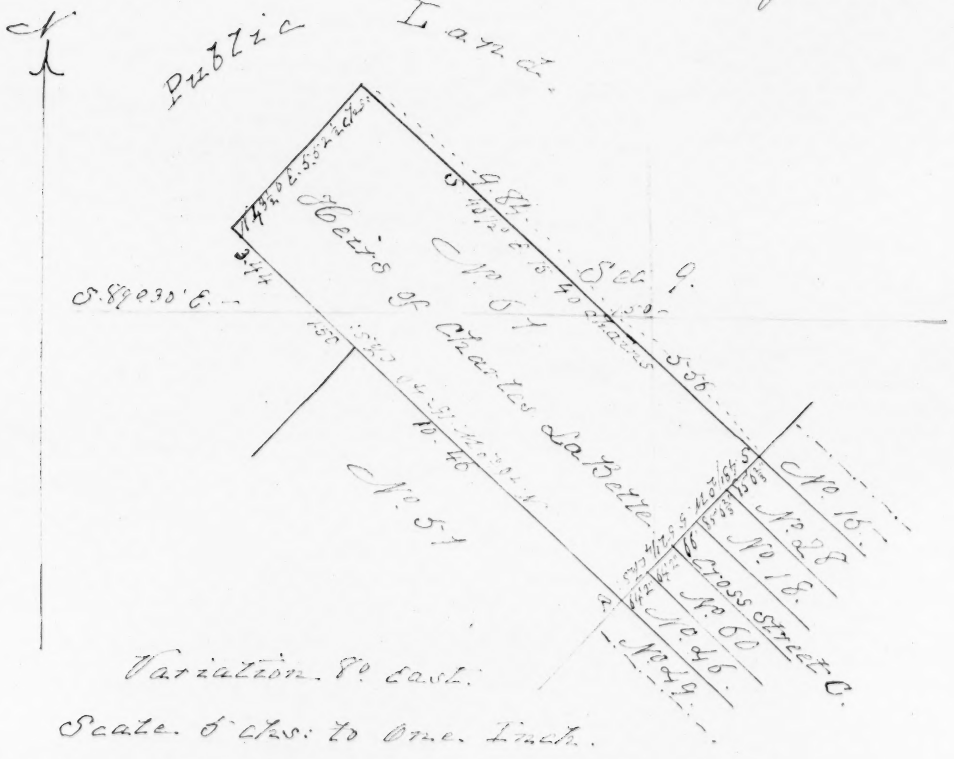
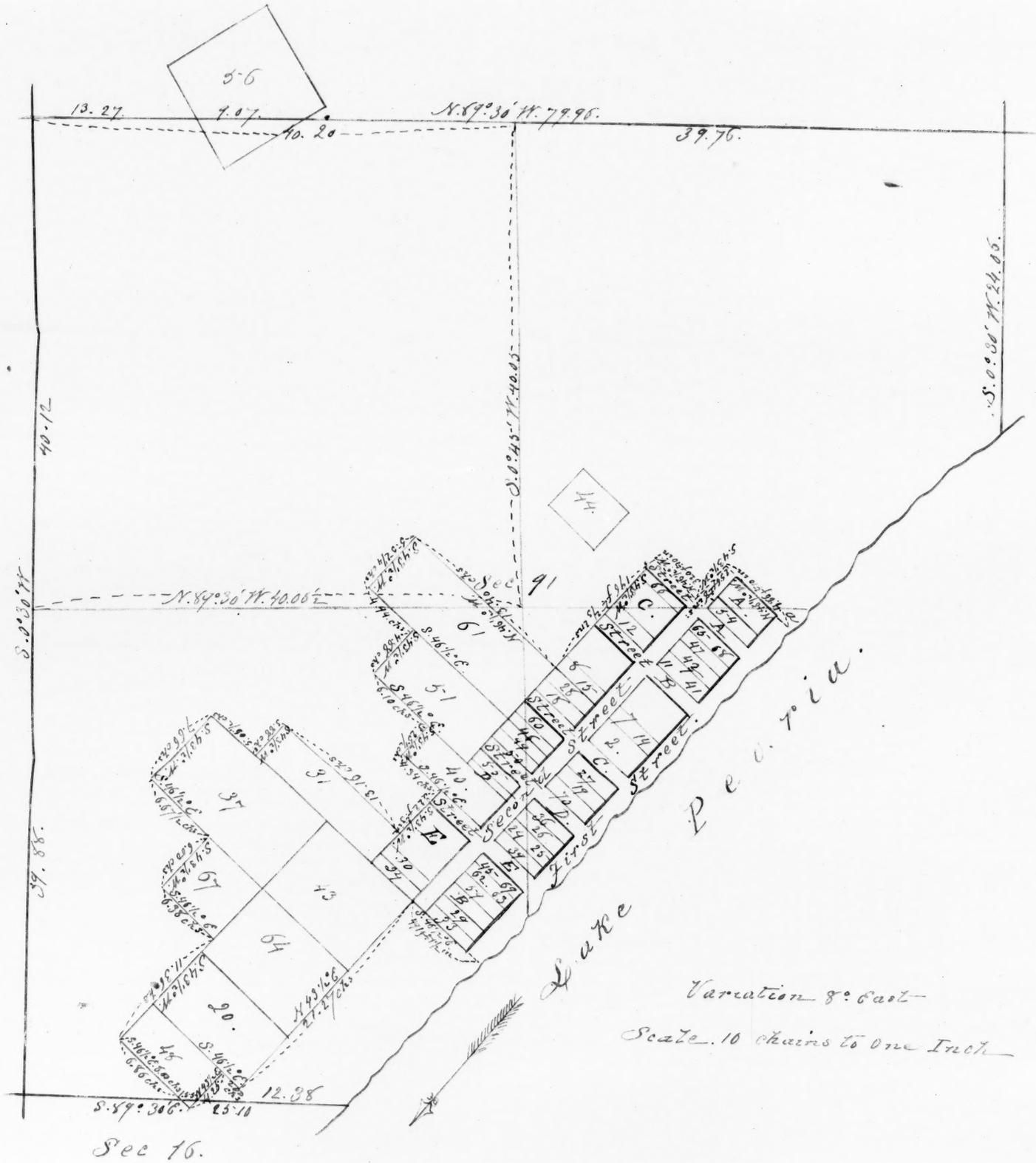


Variation 8° East.

Scale 5 chs: to One Inch.

No 96 - page 25.



5-6
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39.76.
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S.0°45' W. 40.05
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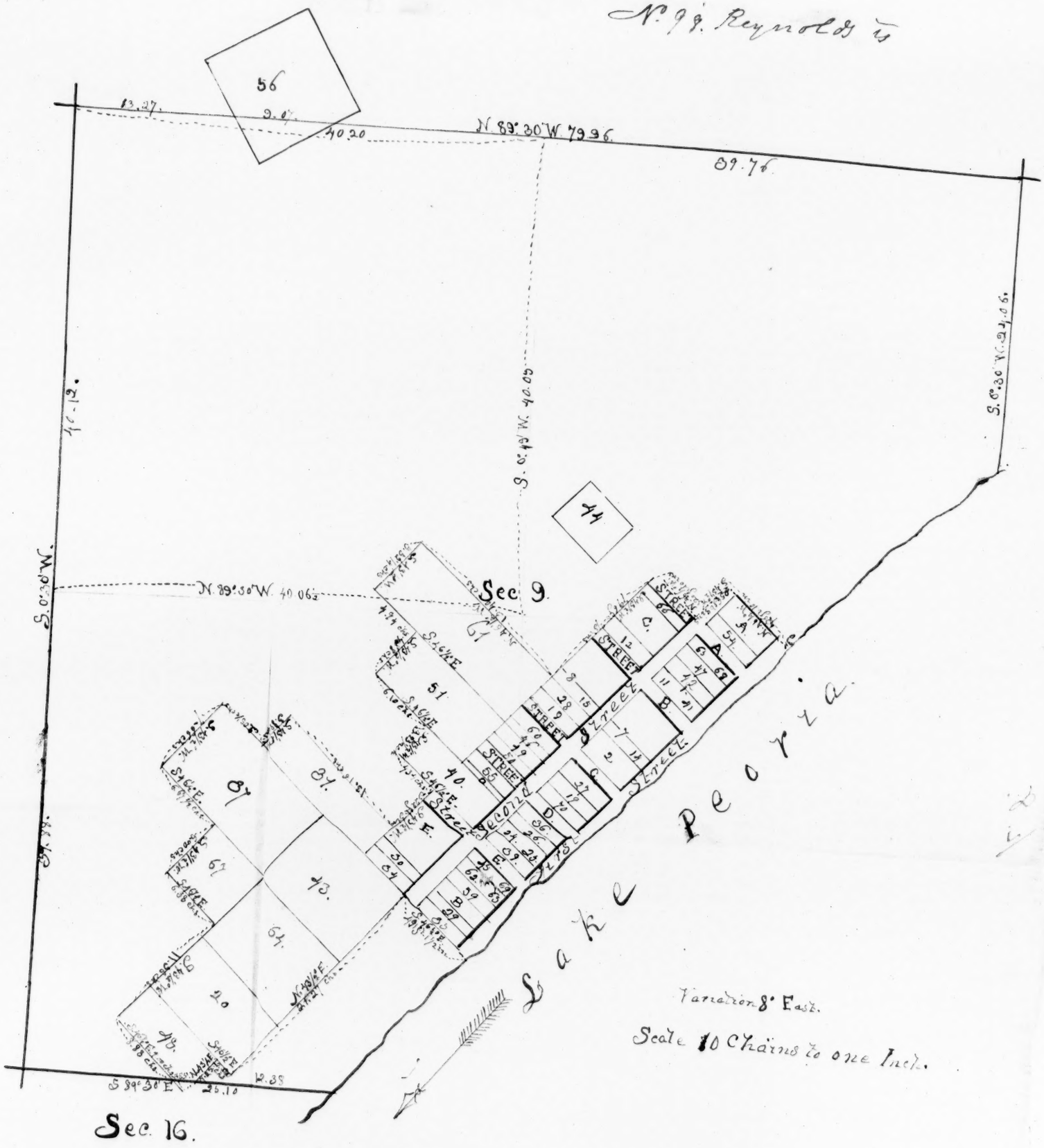
Lake Peoria.
Variation 8° East
Scale. 10 chains to One Inch
Sec 16.



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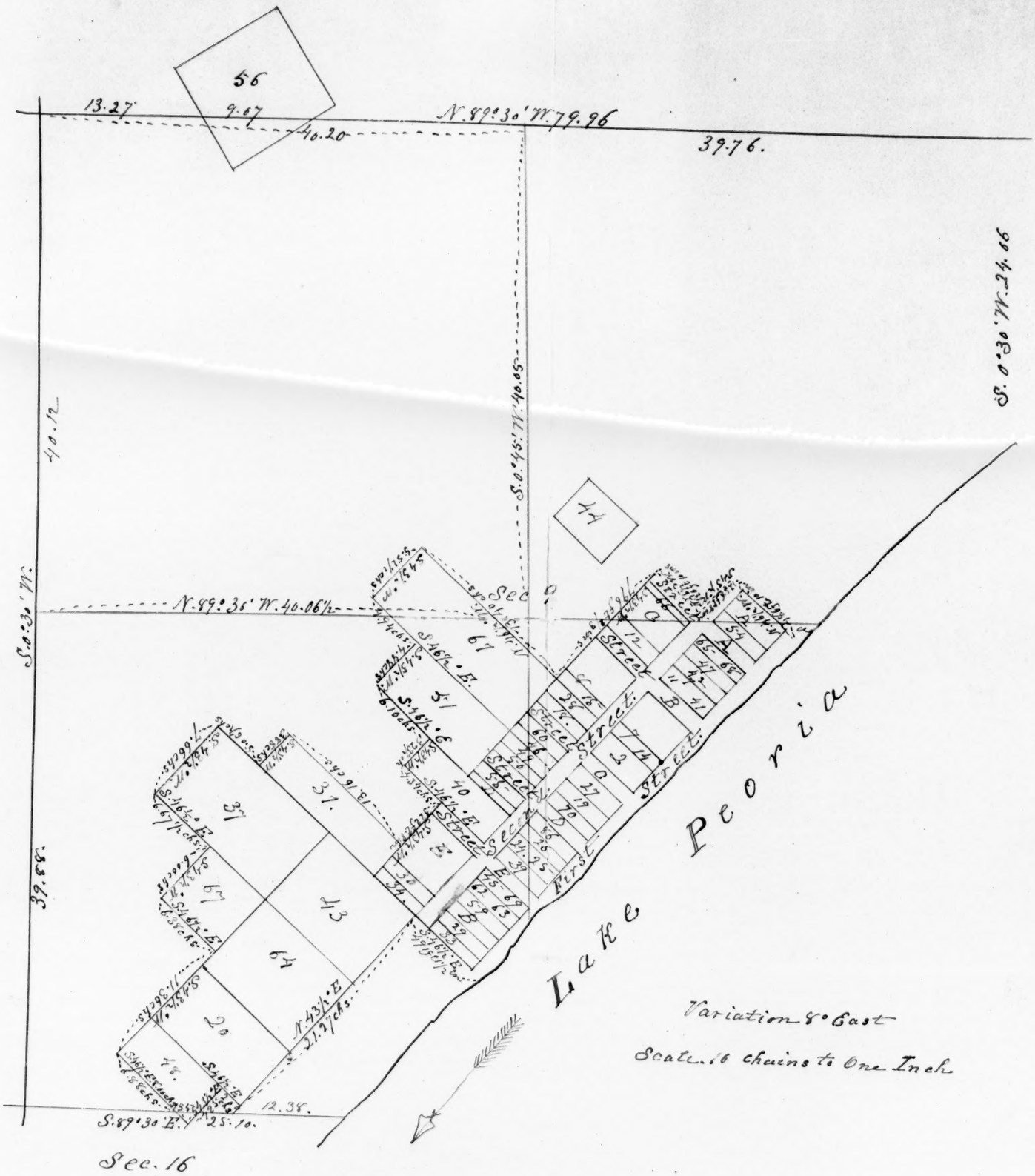
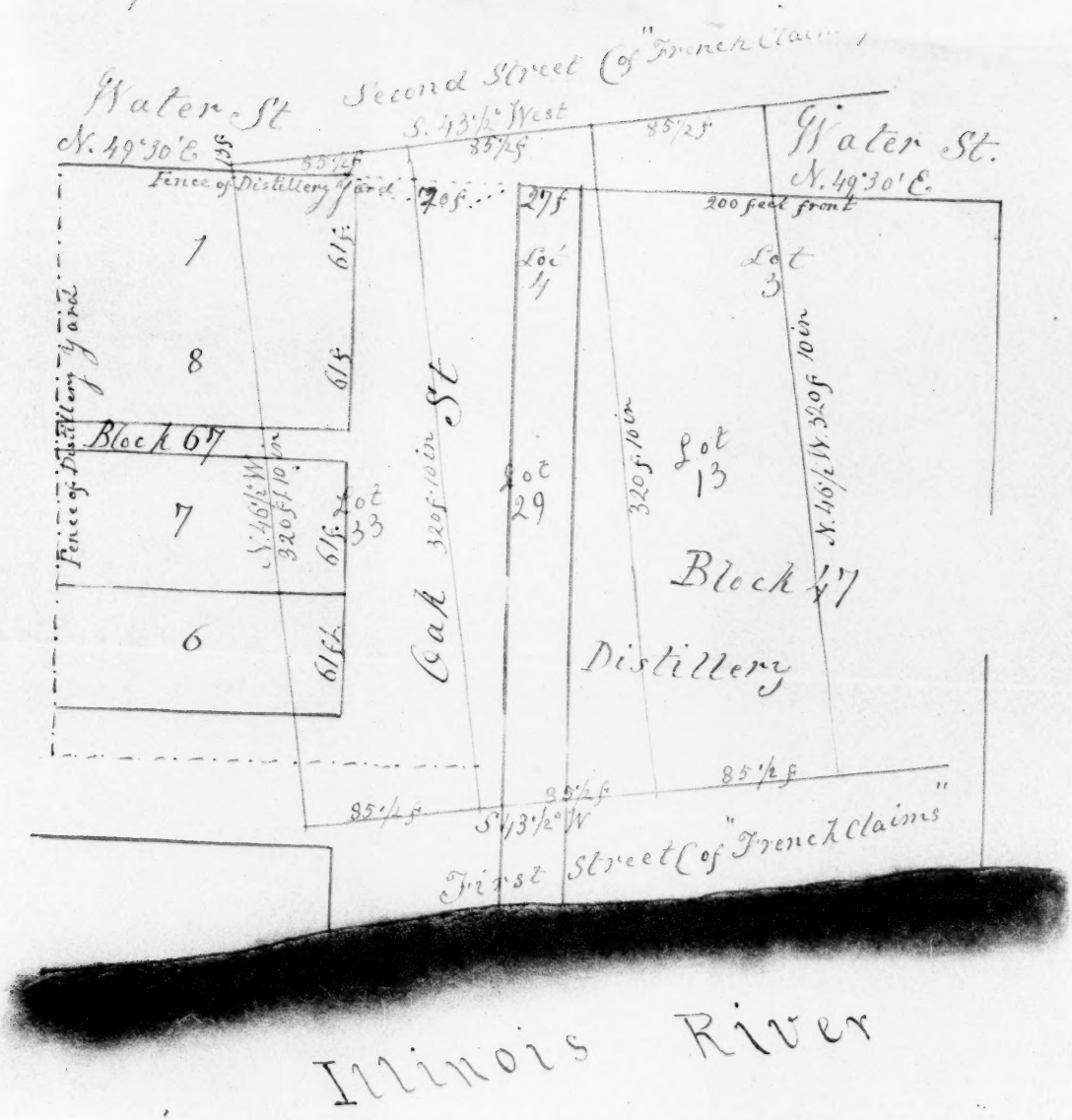
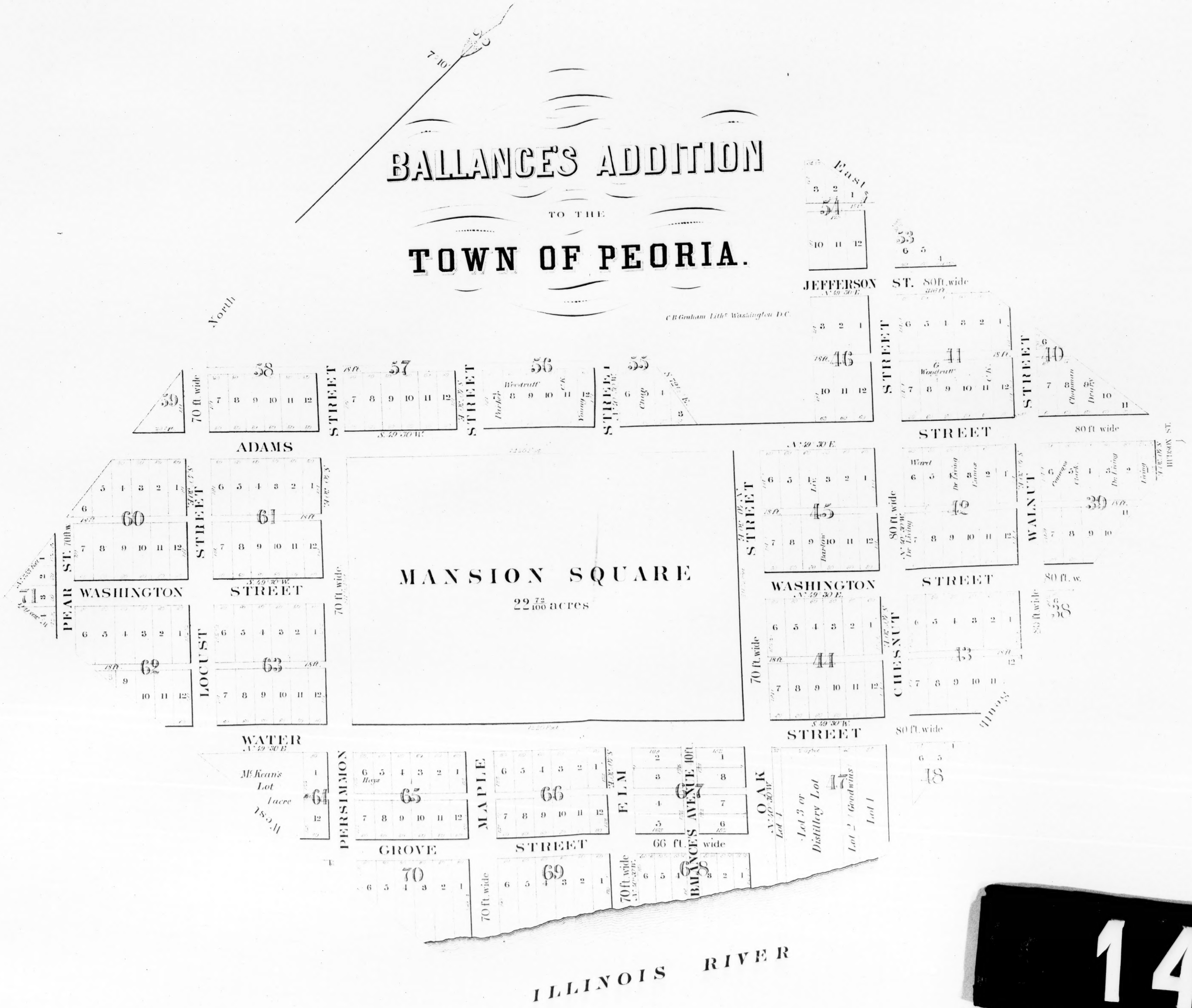
Lake Peoria.
First Street
Second Street
Variation 8° East
Scale 10 chains to one inch

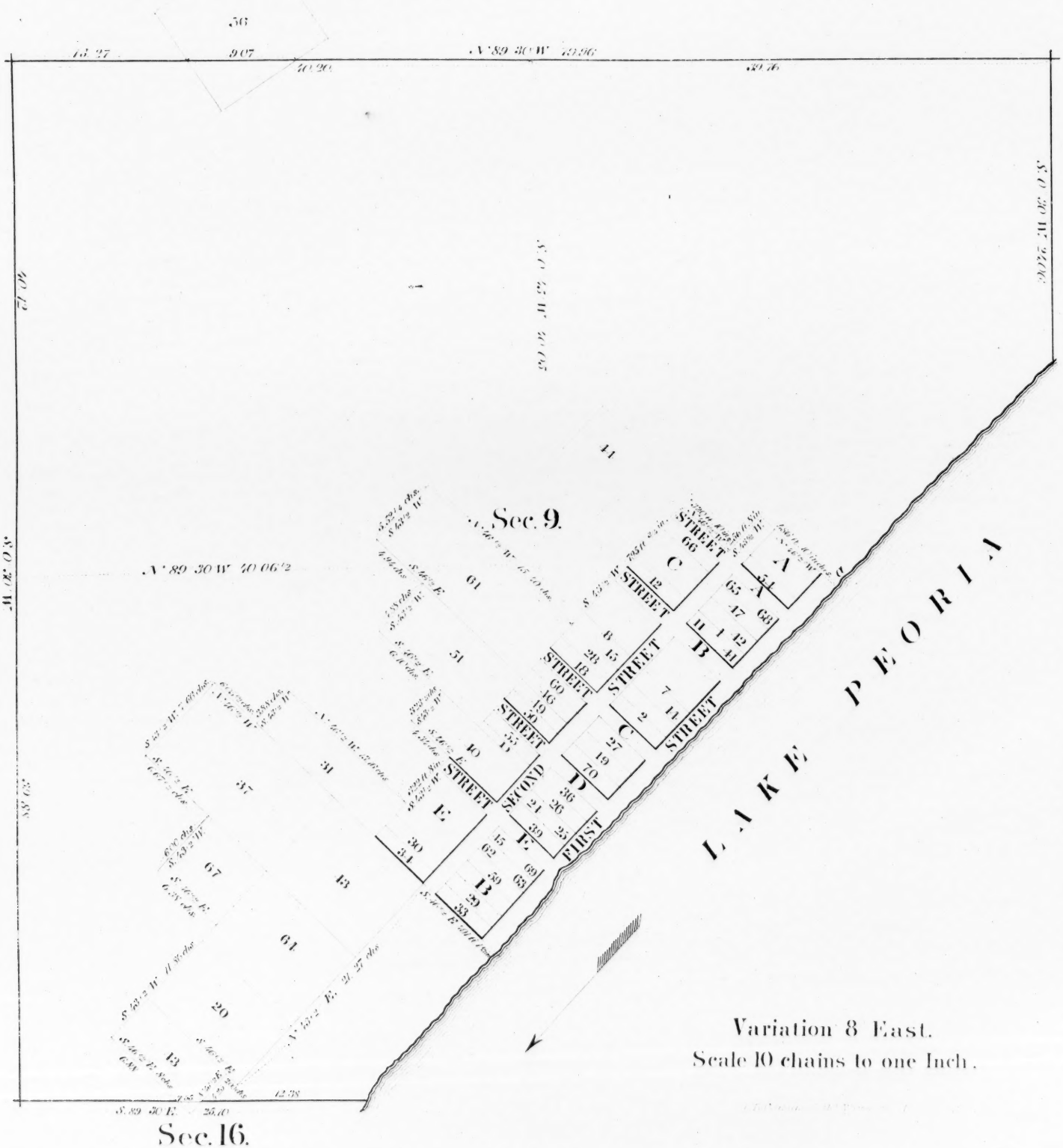


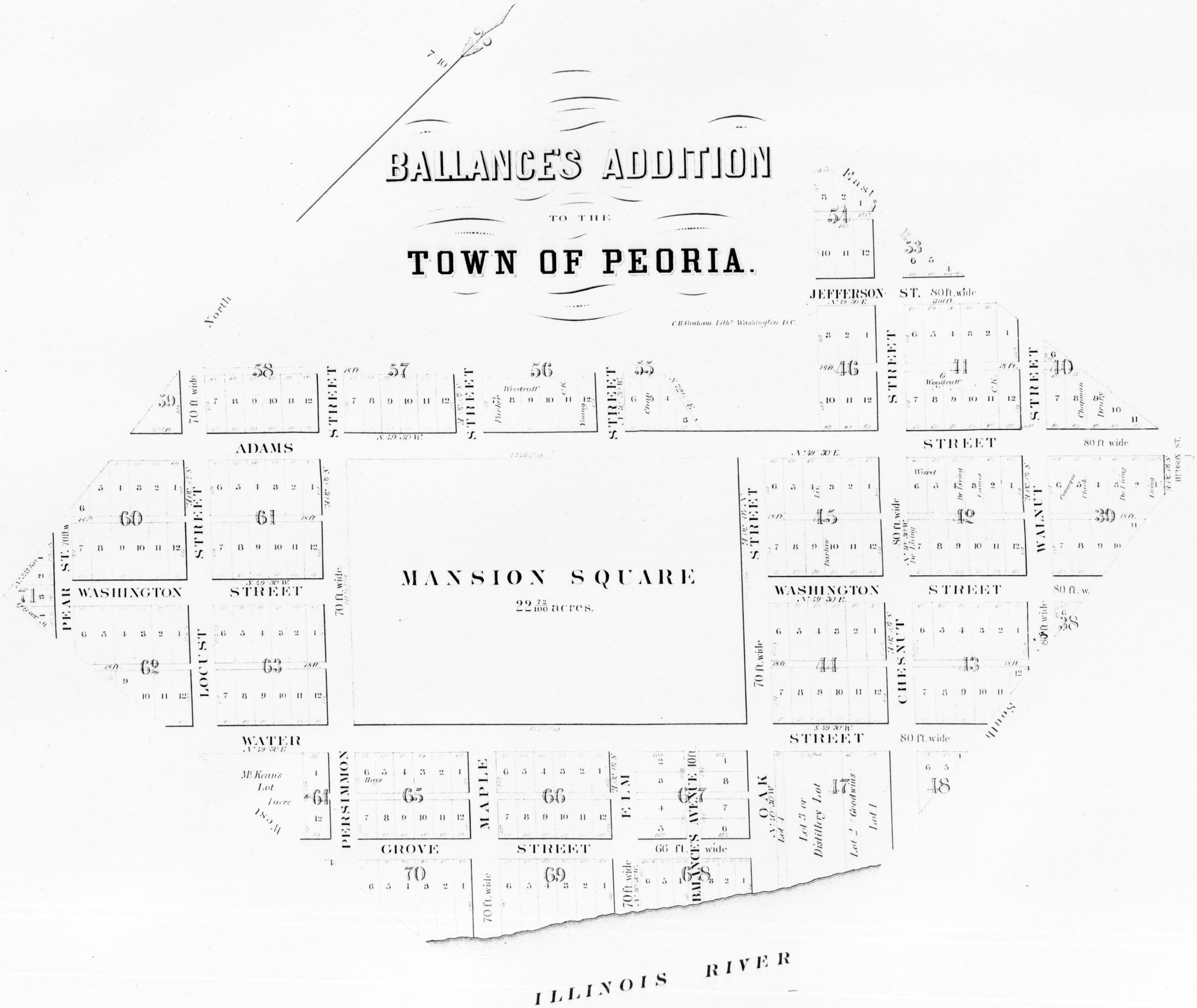
56
13.27
9.67
40.20
N.89°30' W.79.96
39.76.
S.0°30' W.24.66
S.0°45' W.40.05
40.12
44
S.0°30' W.
N.89°35' W.40.06½
Sec 9
67
51
40
37
43
64
20
48
Street
First Street
Second Street
Lake Peoria
39.88.
N.43½° E
21.27chs.
12.38.
S.89°30' E.
25.10.
Sec. 16
Variation 8° East
Scale 16 chains to One Inch


Water St
Second Street (of "French Claims")
N. 49° 30' E.
S. 43½° West
85½ f
Water St.
N. 49° 30' E.
Fence of Distillery Yard
70 f
27 f
200 feet front
1
8
61 f
Lot 4
Lot 3
Block 67
Fence of Distillery Yard
7
6
S. 46½° W. 320 f 10 in
61 f
Lot 33
Oak St
320 f 10 in
Lot 29
Lot 13
320 f 10 in
N. 46½° E. 320 f 10 in
Block 47
Distillery
85½ f
S. 43½° W.
First Street (of "French Claims")
Illinois River

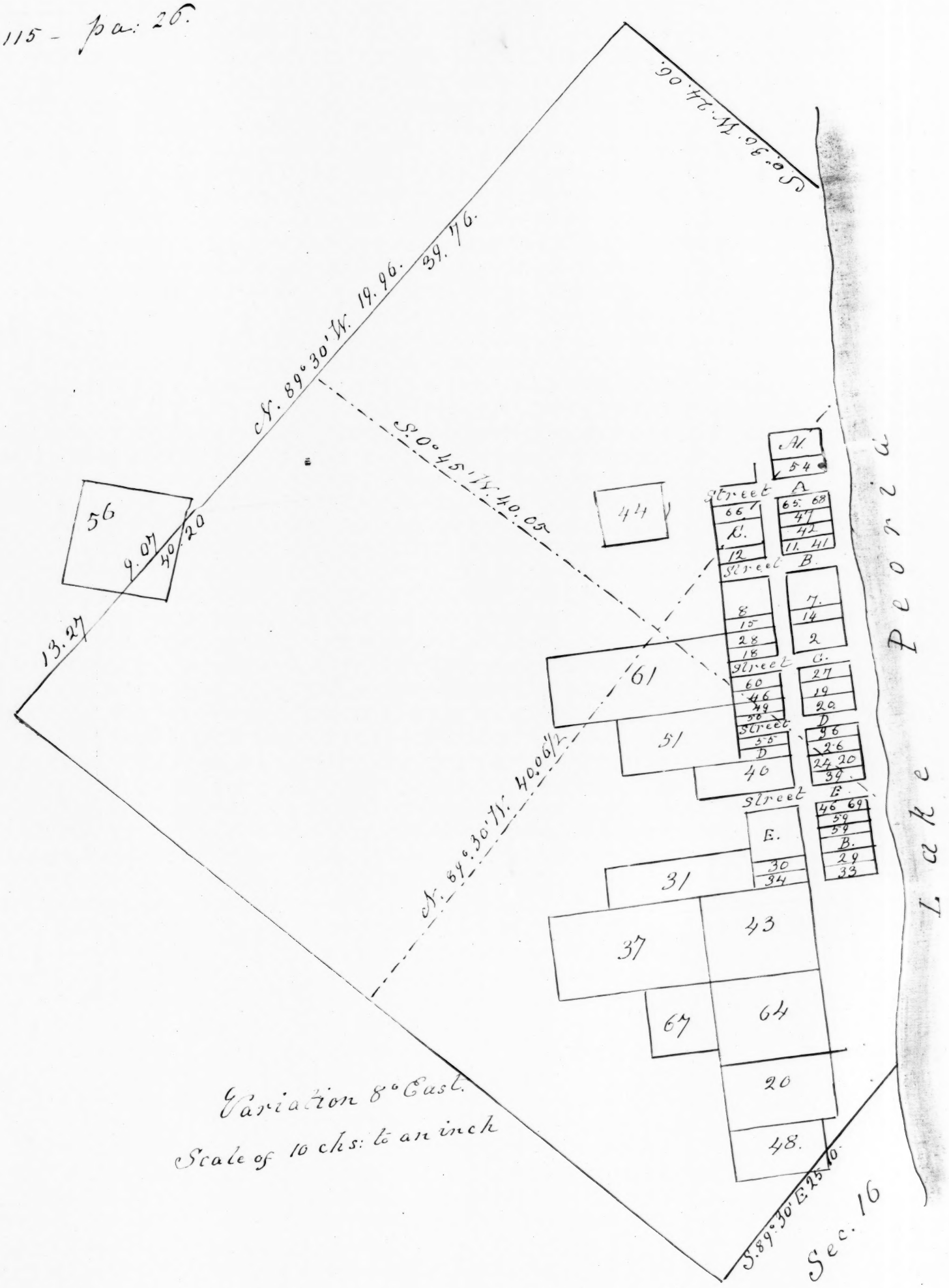

BALLANCE'S ADDITION
TO THE
TOWN OF PEORIA.
C.B. Graham Lith^r Washington D.C.
North
East
JEFFERSON ST.
80 ft. wide
STREET
ADAMS
WASHINGTON
STREET
WATER
PEAR ST.
LOCUST
PERSIMMON
GROVE
MAPLE
ELM
BALANCE'S AVENUE
OAK
CHESNUT
WALNUT
MANSION SQUARE
22 72/100 acres
70 ft. wide
80 ft. wide
66 ft. wide
McKean's Lot
Lot 3 or Distillery Lot
Lot 2 Goodwins
Lot 1
ILLINOIS RIVER

14


Sec. 9.
LAKE PEORIA
STREET
SECOND
FIRST
A
B
C
D
E
F
Variation 8 East.
Scale 10 chains to one Inch.
Sec. 16.


BALLANCE'S ADDITION
TO THE
TOWN OF PEORIA.
C.B. Graham Lith^r Washington D.C.
North
East
JEFFERSON ST. 80 ft. wide
ADAMS STREET
WASHINGTON STREET
WATER STREET
PEAR ST. 70 ft. w.
LOCUST STREET
PERSIMMON
GROVE STREET
MAPLE STREET
ELM
BALANCE'S AVENUE 10 ft.
OAK
CHESNUT STREET
WALNUT STREET
MANSION SQUARE
22 72/100 acres.
70 ft. wide
80 ft. wide
66 ft. wide
Woodruff
Parker
Young
Chap
Chapman
Drury
Ward
Dr. Living
Barlow
Hays
McKean's Lot
Lot 3 or Distillery Lot
Lot 2 (Goodwins)
Lot 1
ILLINOIS RIVER

No 115 - pa: 26.

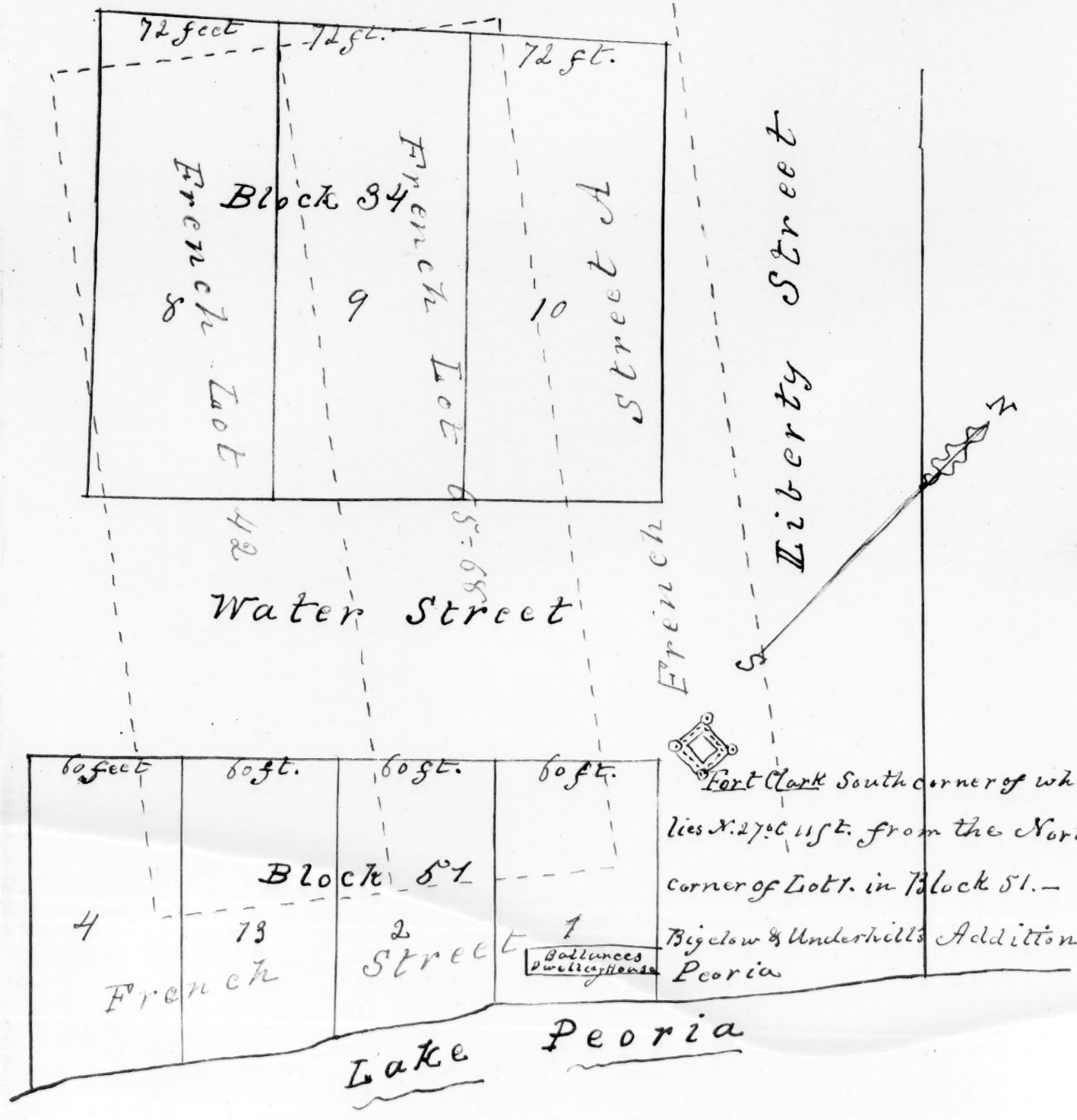


Variation 8° East.

Scale of 10 chs: to an inch

N
Raphael Belonge.
Antoine Granbois
54
Antoine
Bourbonne
66
Louis Reconneau
68 and 65.
Antoine Bourbonne.
Hypolite Maillett
47.
Antoine Deschamps.
Not claimed
Felix Fontaine
42.
Louis Pilette
12.
Louis Pelette
11 and 41
Felix Fontaine
Fort Clark
Thomas Forsyth
300 feet square
8
Jacques Mette
15
Thomas Forsyth
300 feet square
7.
Jacques Mette
14.
Illinois River
Lake Peoria

No 118 – plat 02.



Fort Clark South corner of which lies N. 27° C. 115 ft. from the North corner of Lot 1. in Block 51. – Bigelow & Underhills Addition to Peoria

No. 123. Pages 24-67.

Ross Winans Imp't. in the construction of cars or carriages intended to run on Rail Roads.

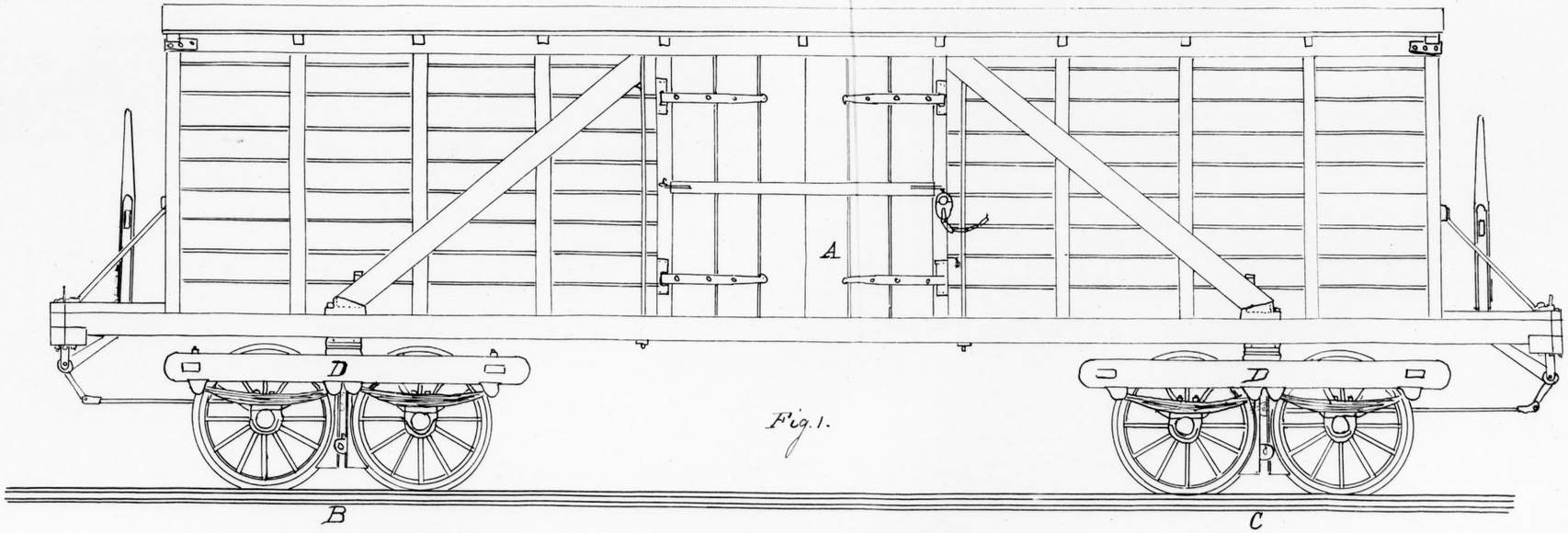


Fig. 1.

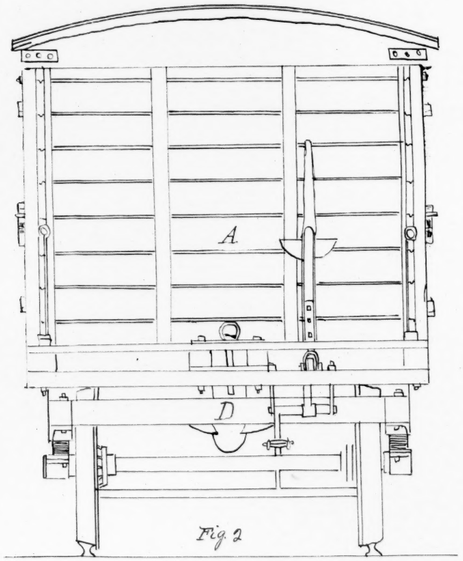


Fig 2

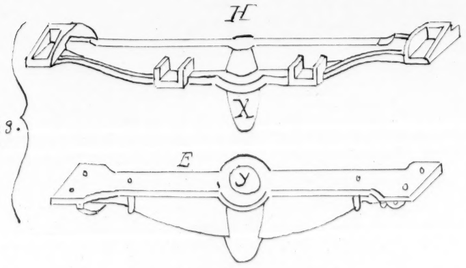
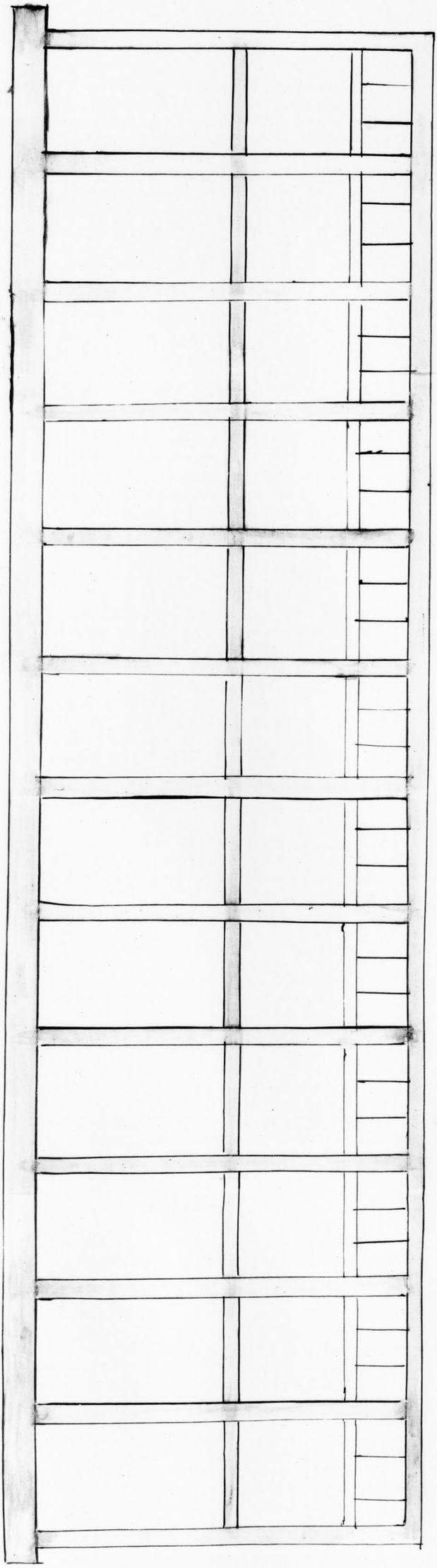


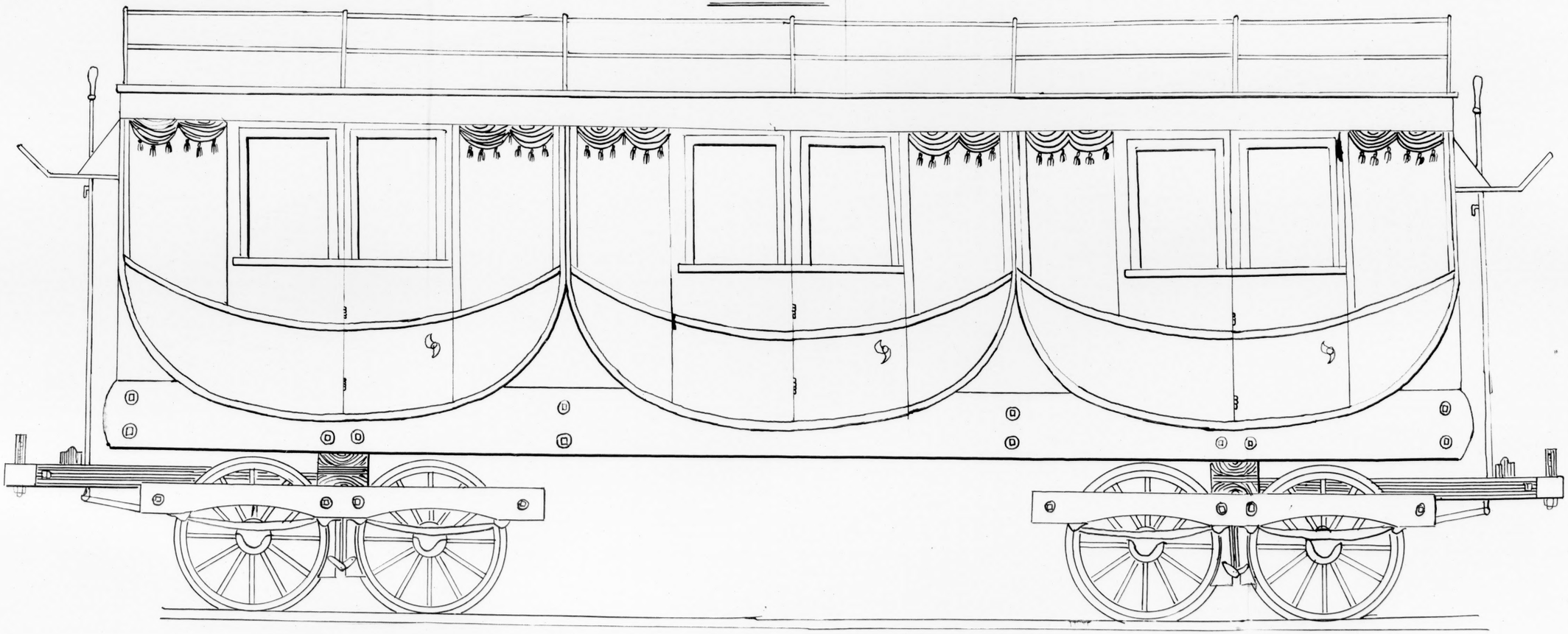
Fig 3.

No 123 - page ~~[illegible]~~

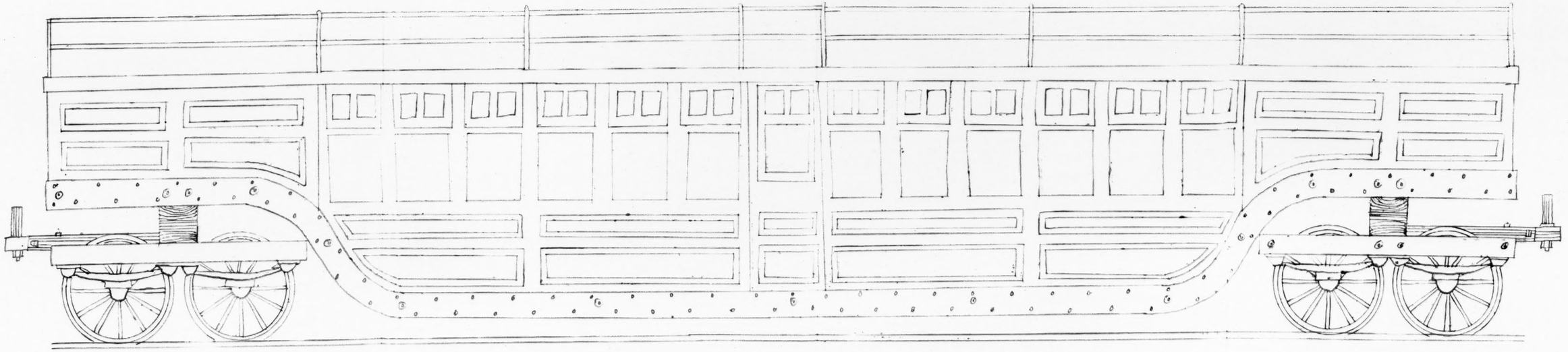


Nº 123 – page 223

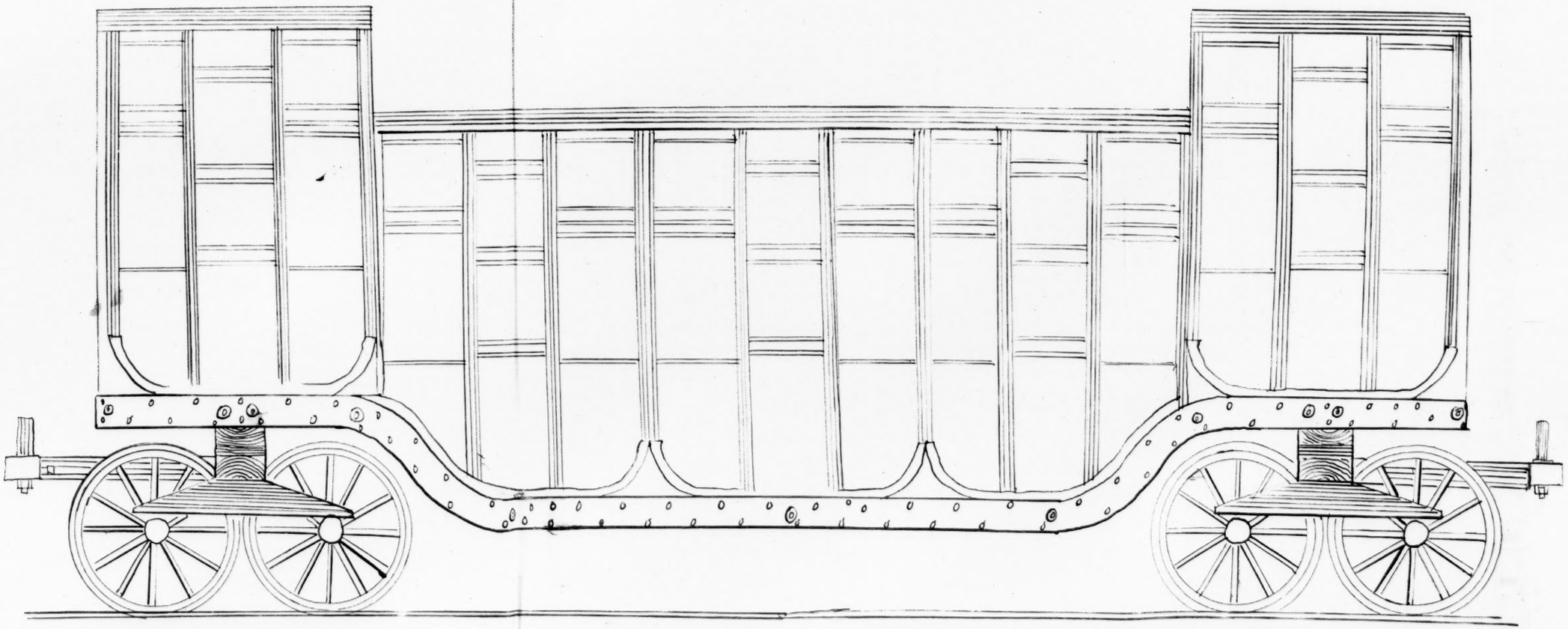
"Car Winchester"



"Car Dromidary"

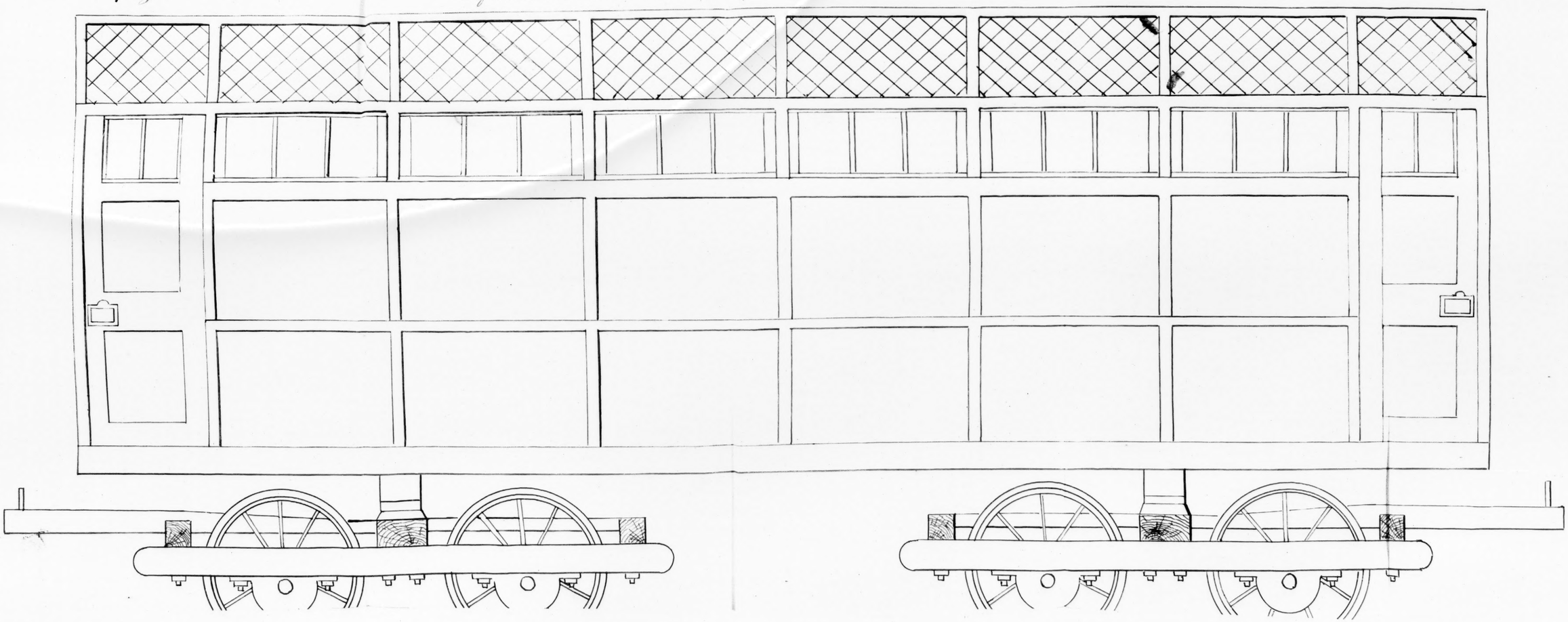


"Car Comet."



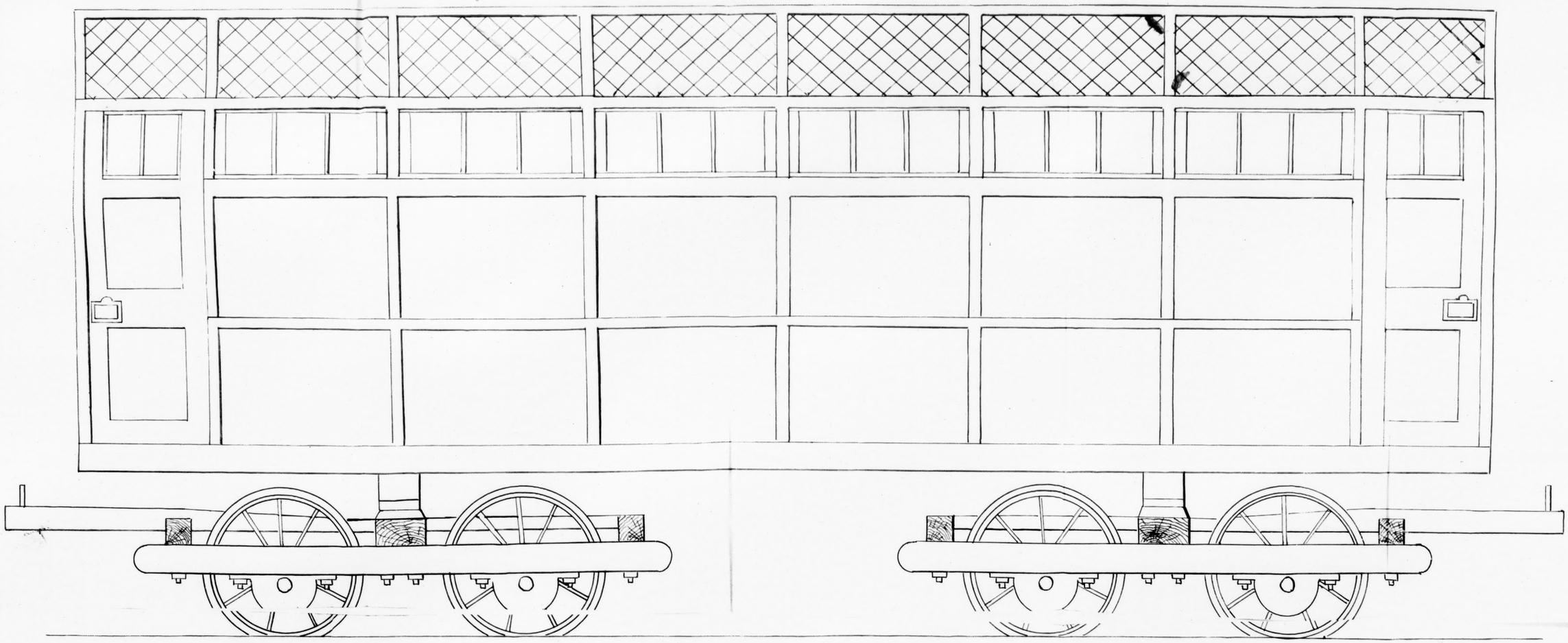
No 123 — Page —

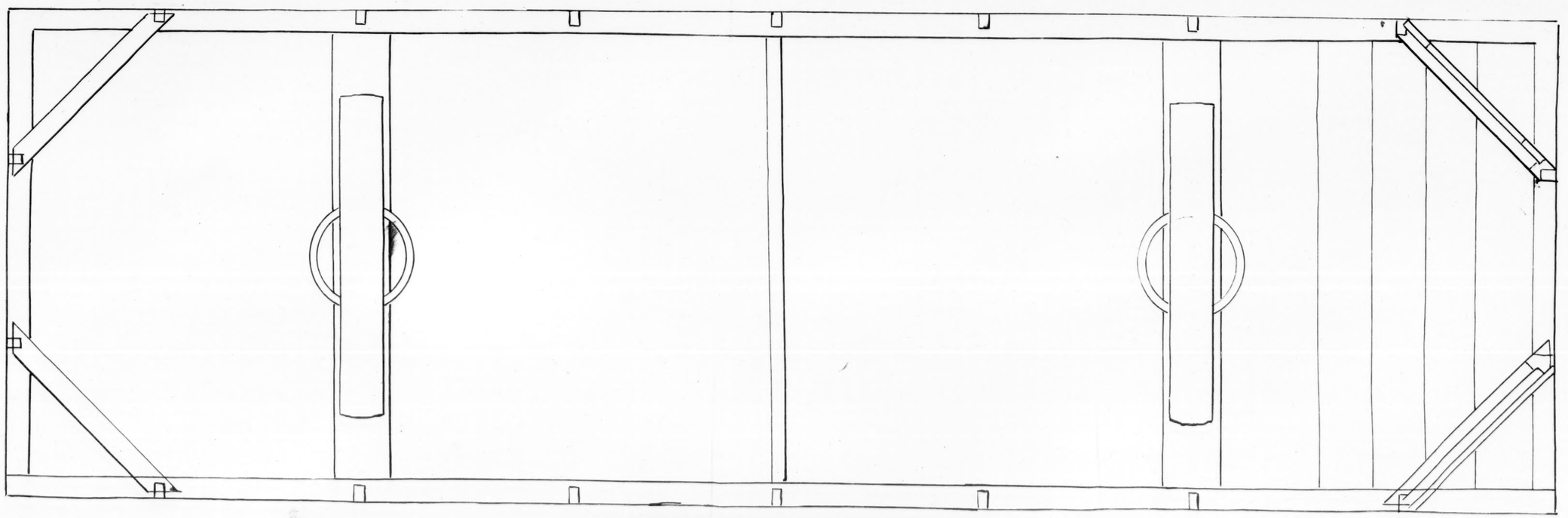
Defendants Exhibit No 4



No 128 ~ Page ~

Defendants Exhibit No 4

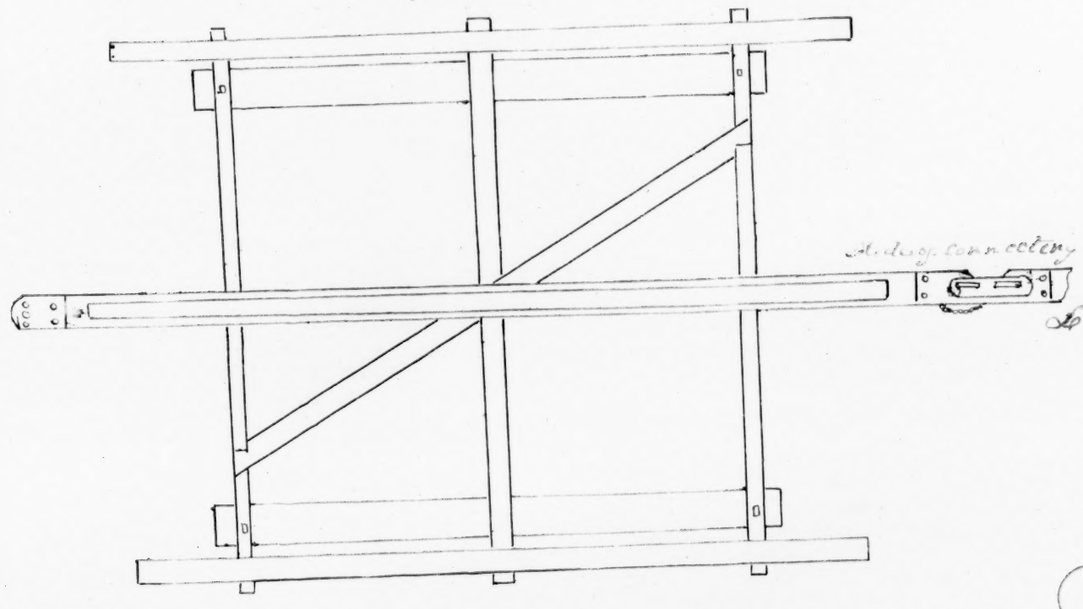




30/23- page- 327.

"Defendants Exhibit H"

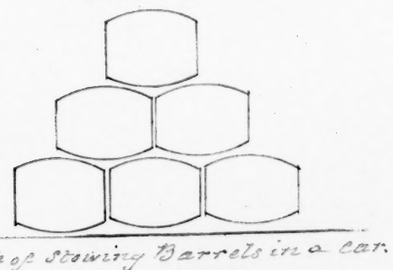
Plan of the Frame on which the Car Body rests
scale of ½ inch to the foot



Mode of connecting the Cars of a Train.

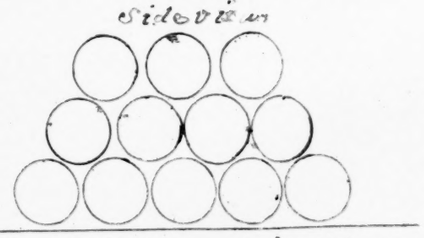
Latrobes 4 Wh: Platform Car
B & O. R. Road

End view



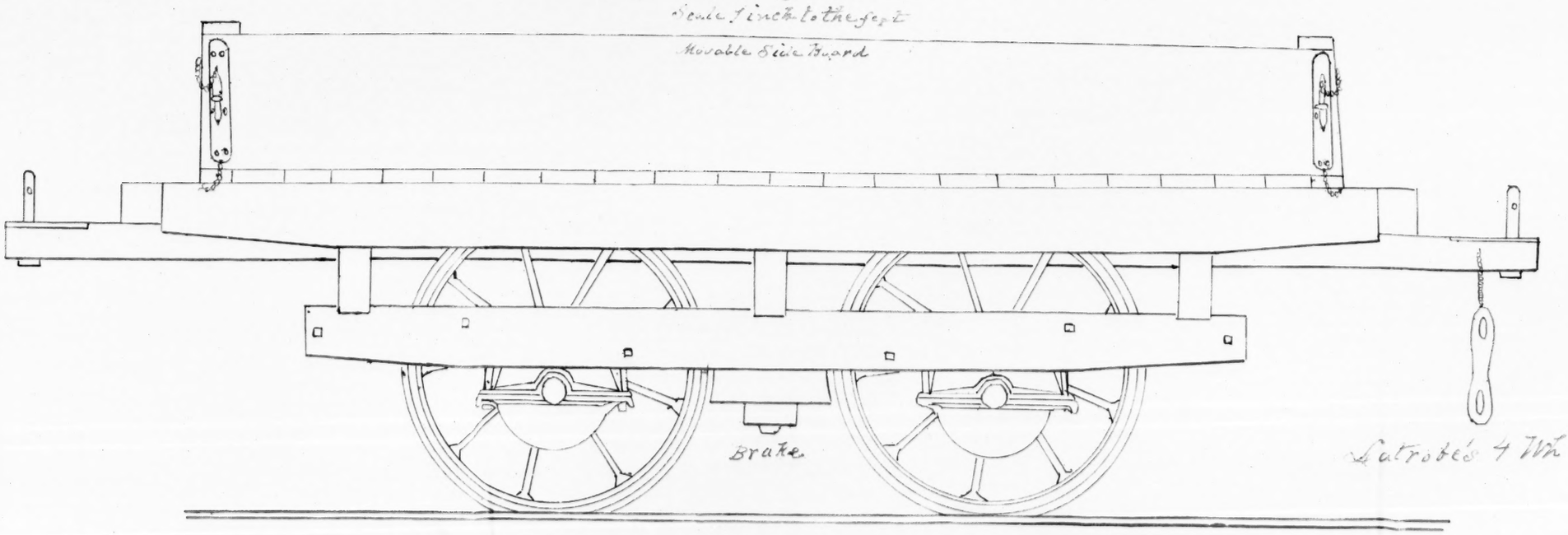
Mode of Stowing Barrels in a Car.

Side view



Mode of Stowing Barrels in a car.

Side View of the Car
Scale 1 inch to the foot



Latrobes 4 Wh Platform Car

C A R

Used for the transportation of

F l o u r

on the Baltimore and Ohio Rail Road

No 123 - page —

Ross Wenand
vs
The Eastern Rail Road Co

Defendants Exhibit I referred to in the Definition of Conduce Gatch taken before Levin Dale Comr.

"Defendants Exhibit II"

C. Gatch

27

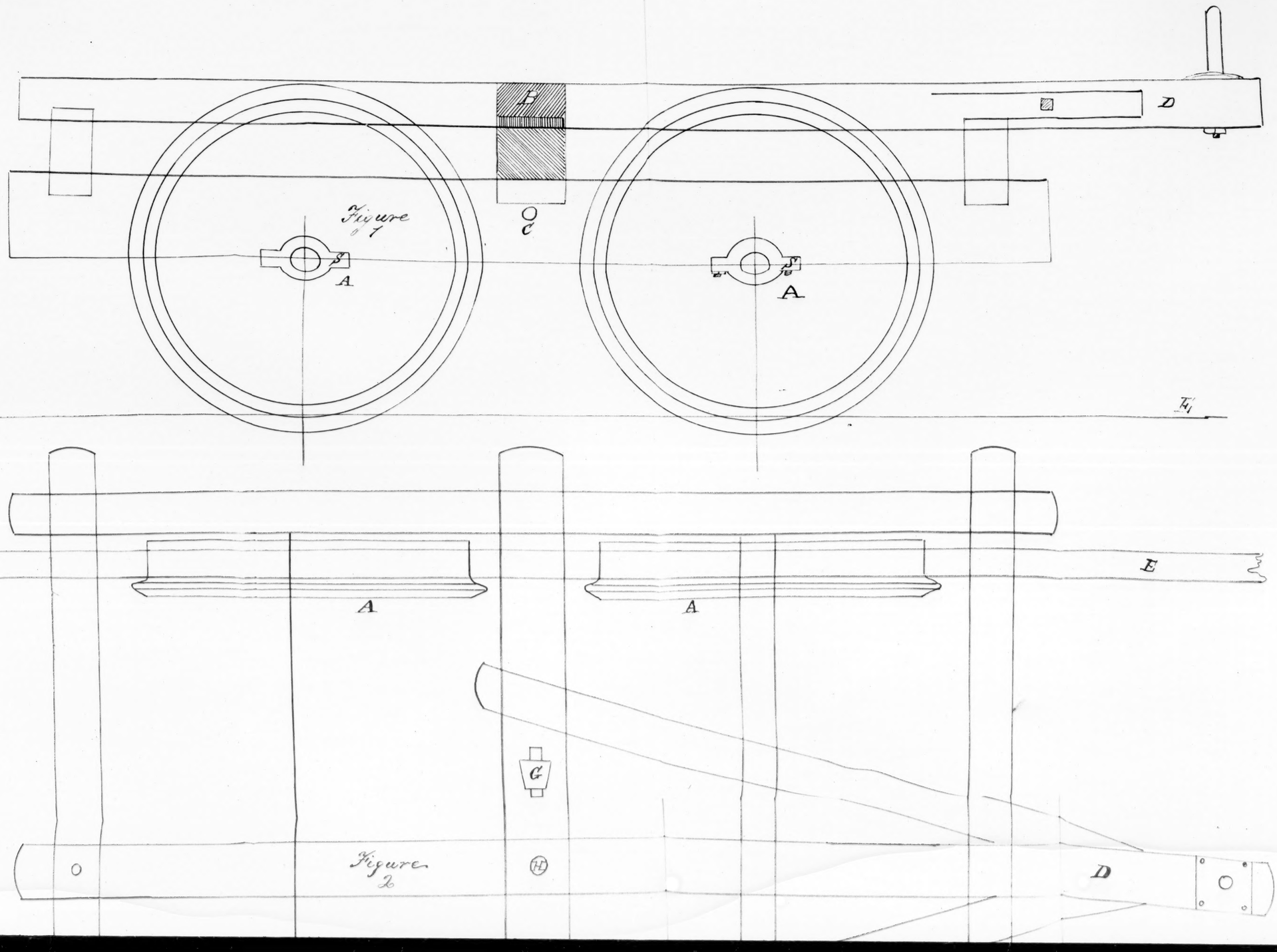


Figure 1

Figure 2

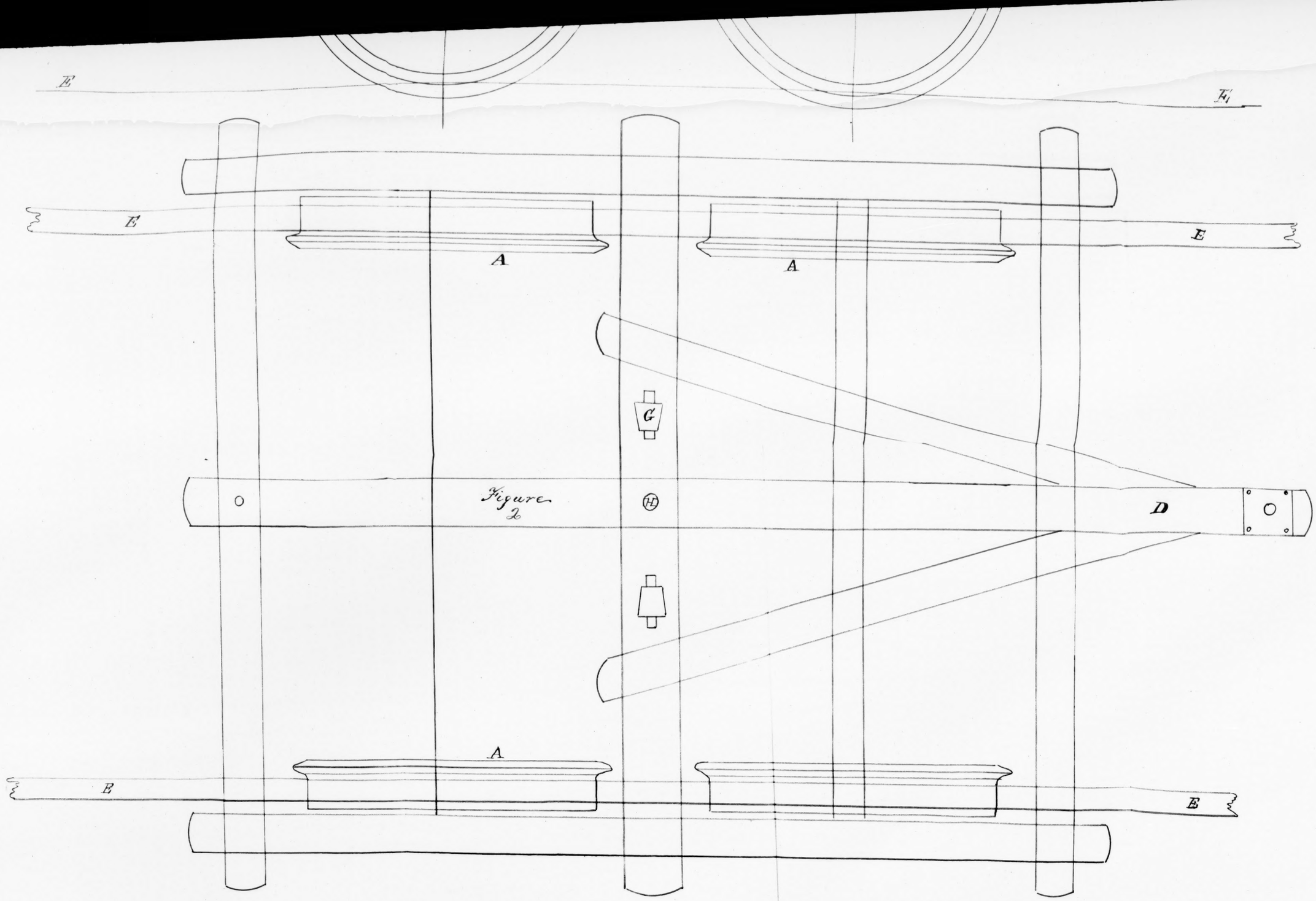


Figure 2

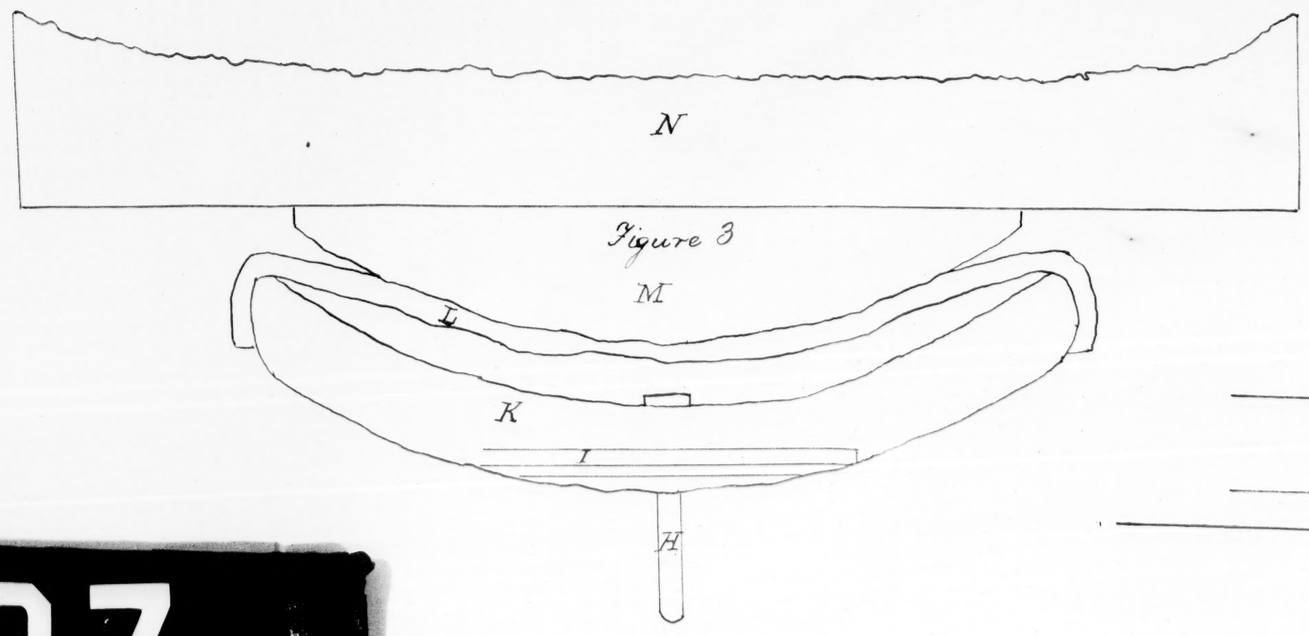


Figure 3

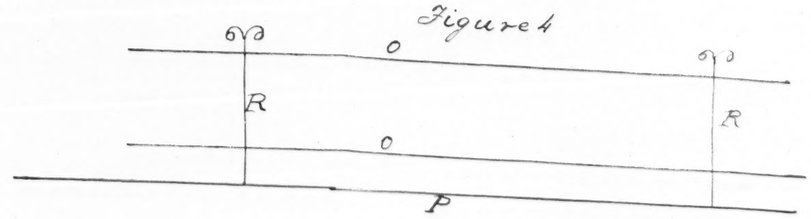
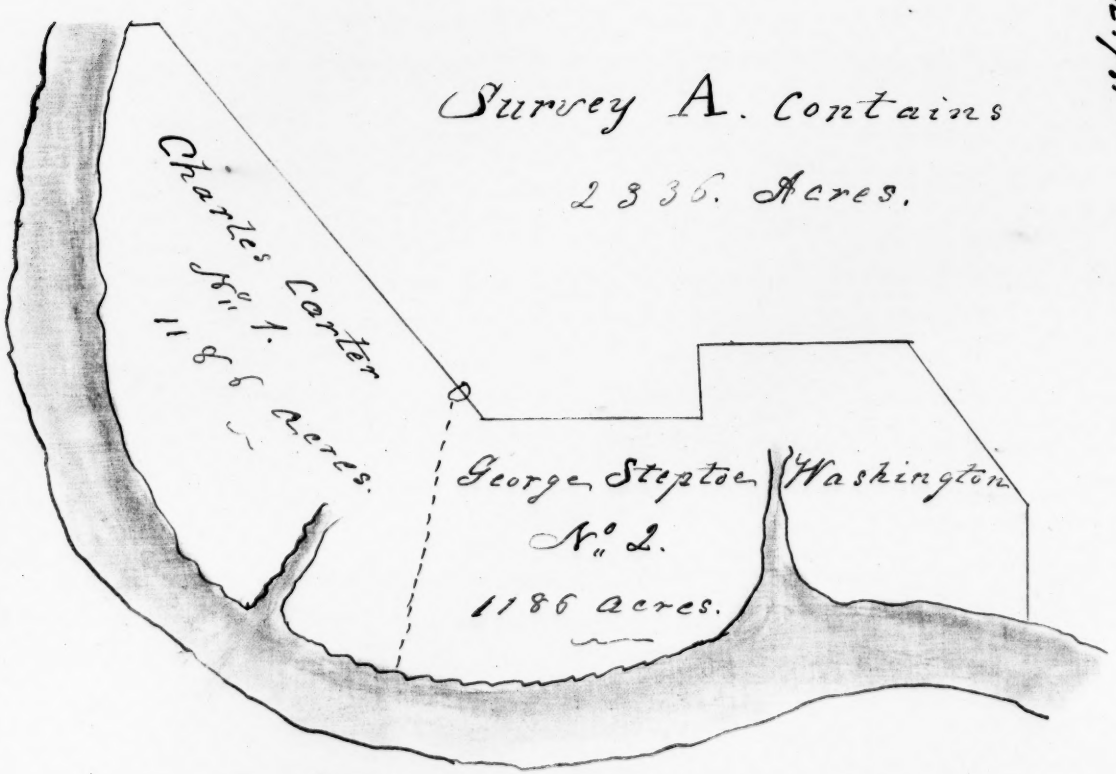


Figure 4

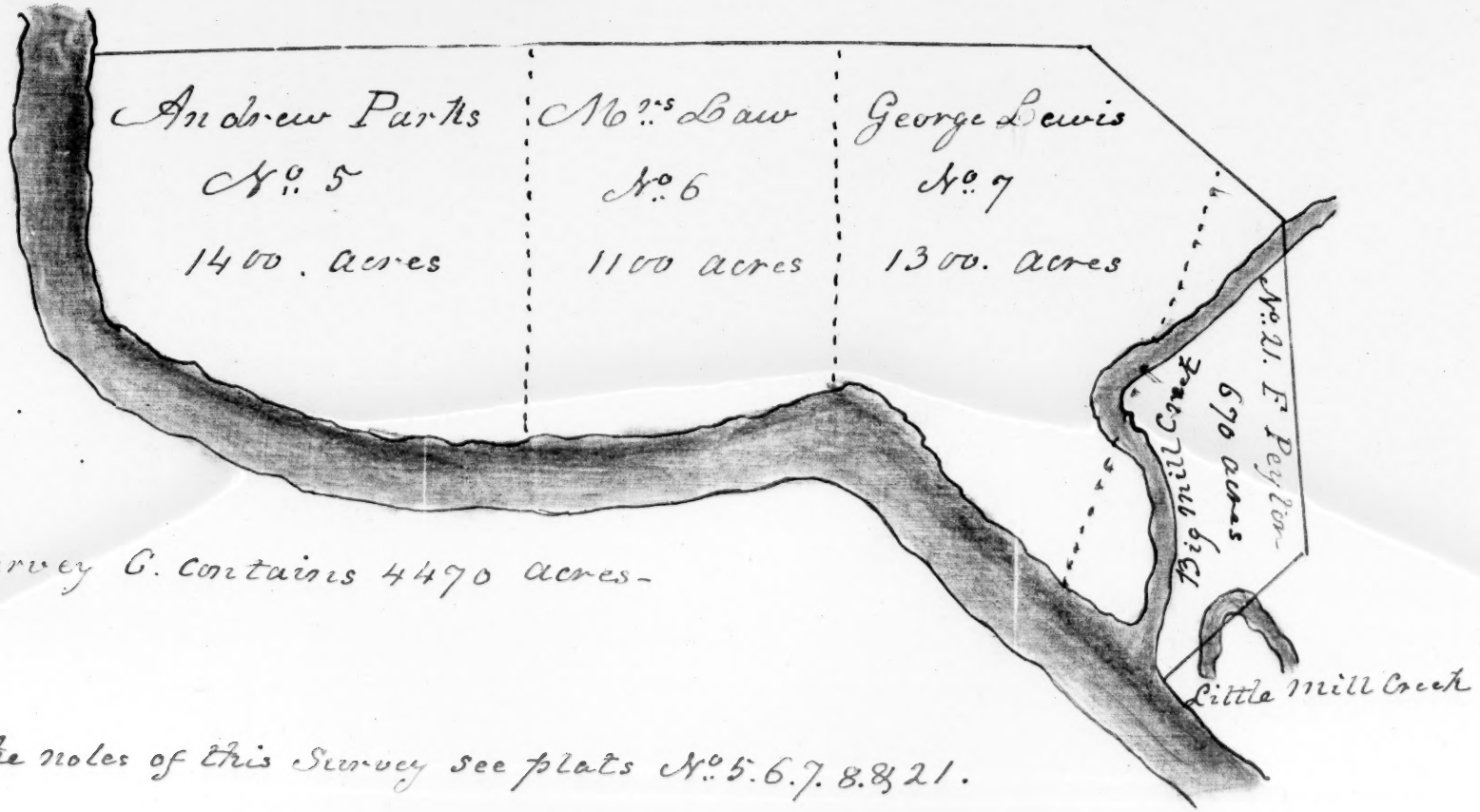
27

p. 178. – A.

h. 91.

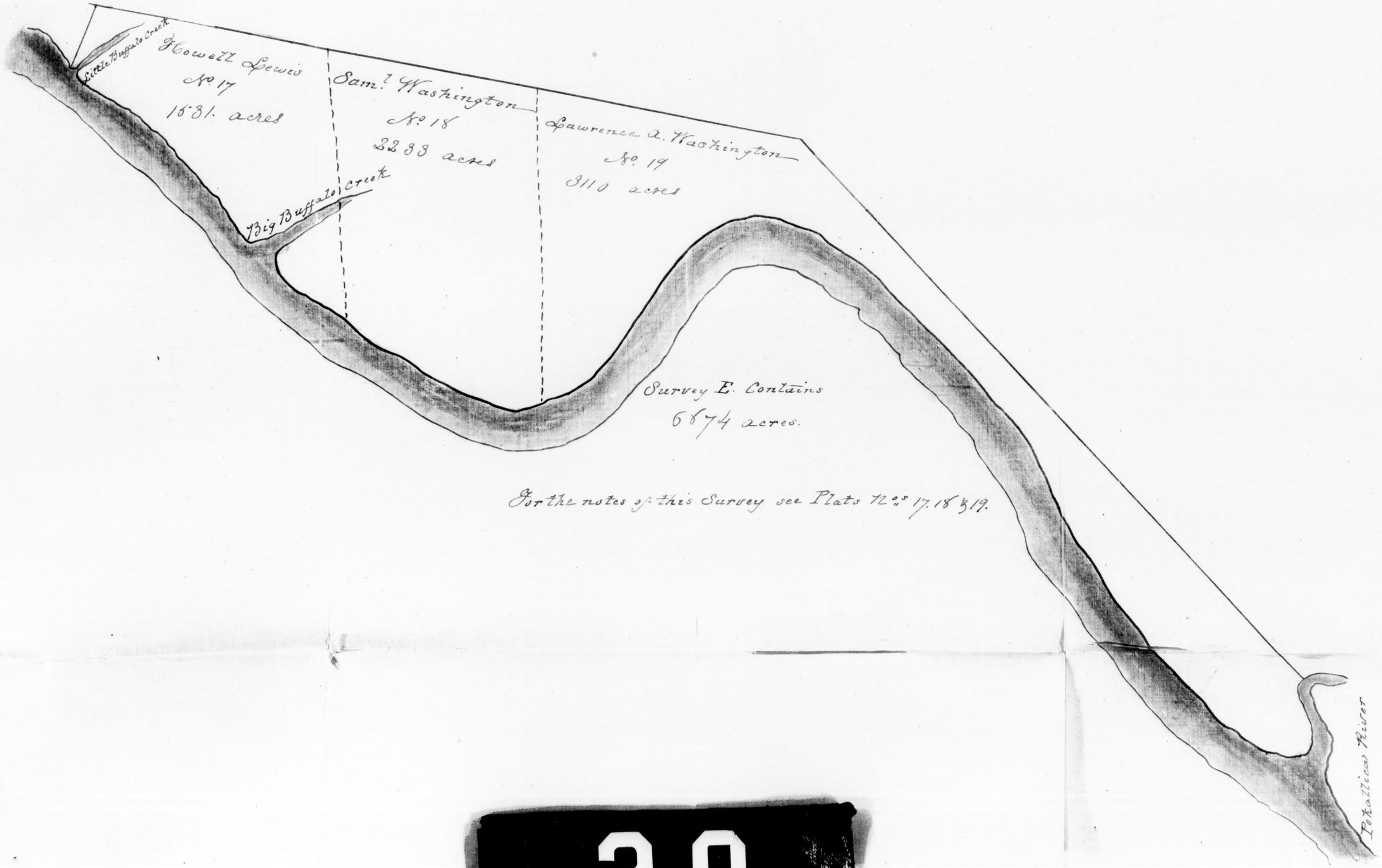


For the courses of this Survey see plats Nos. 1 & 2.



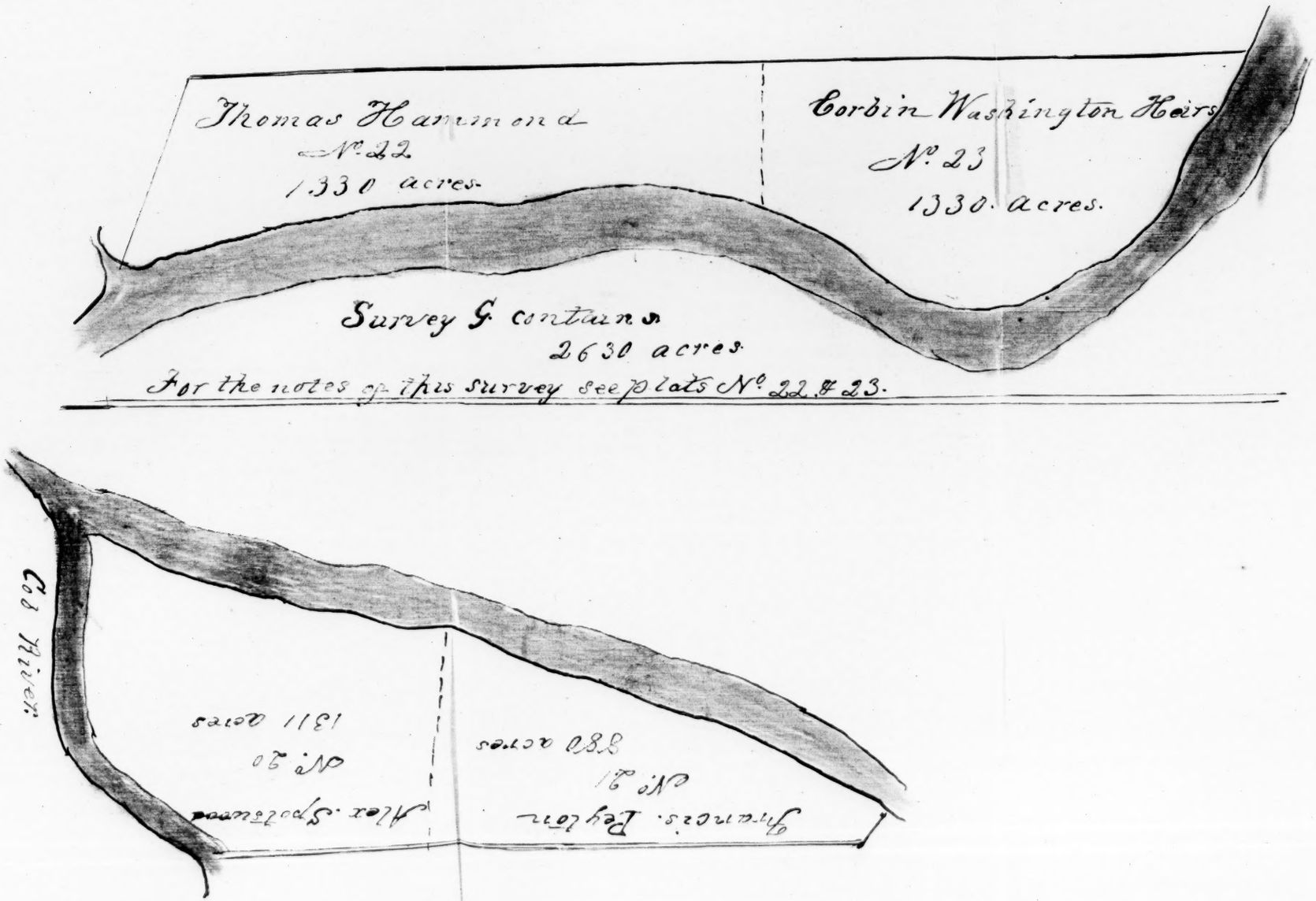
Survey C. contains 4470 acres-

For the notes of this Survey see plats No. 5. 6. 7. 8. & 21.

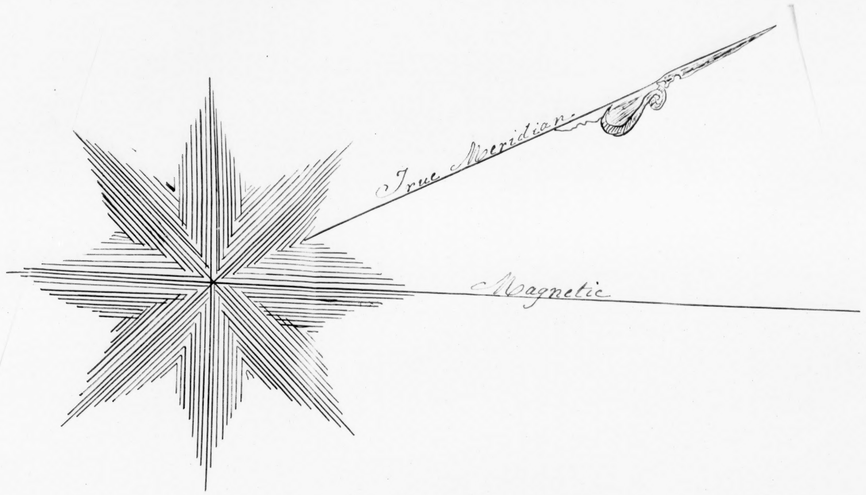

Howell Lewis
No 17
1631 acres
Sam.l Washington
No 18
2233 acres
Lawrence A. Washington
No 19
3110 acres
Little Buffalo Creek
Big Buffalo Creek
Survey E. Contains
6674 acres.
For the notes of this Survey see Plats No.s 17. 18 & 19.
Potomac River

30

No. 124 page 91

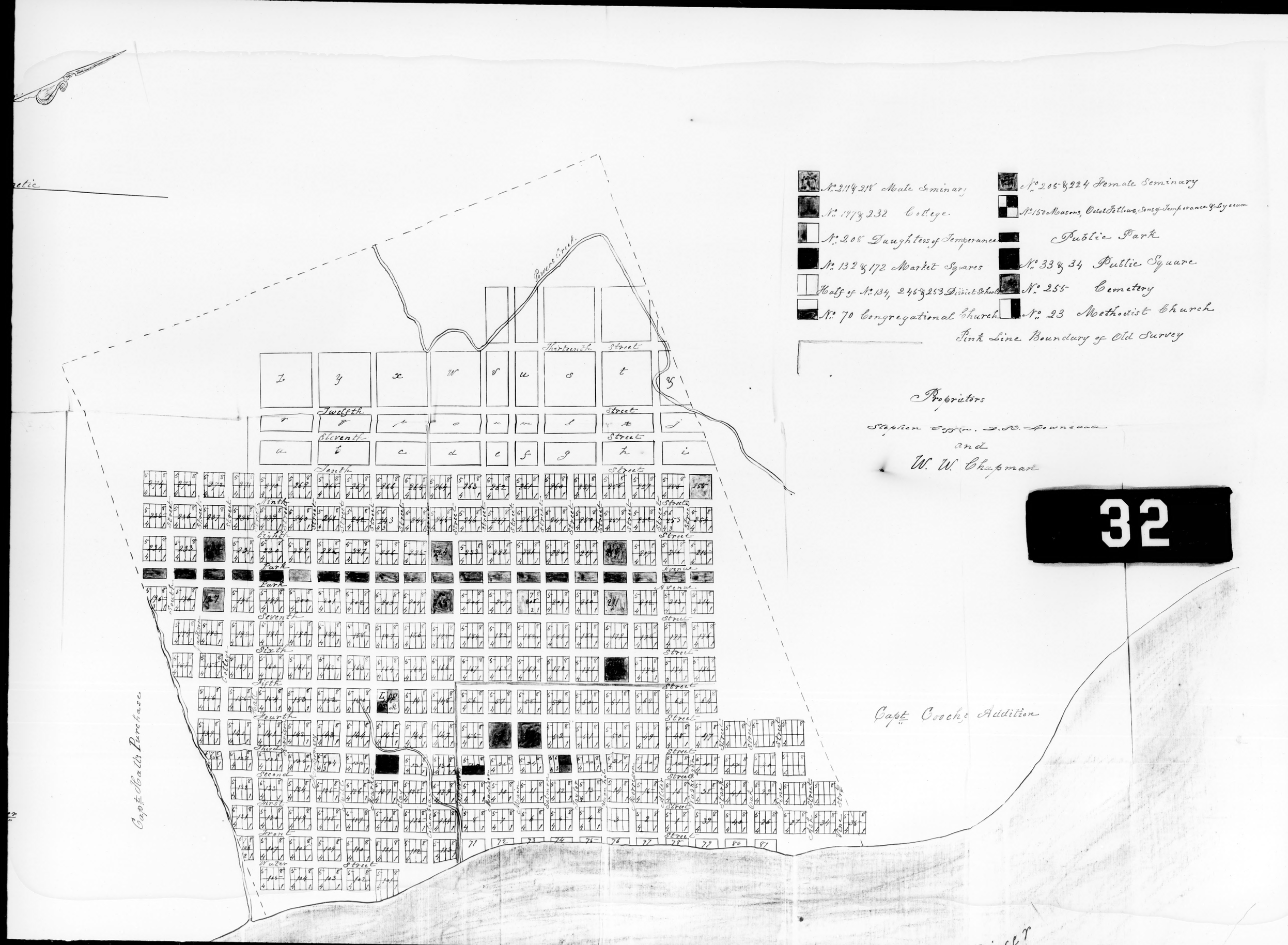


No 126 - (Exhibit A.)



Town of Portland Oregon

John B Brady Delr.



No. 211 & 218 Male Seminary
No. 197 & 232 College.
No. 208 Daughters of Temperance
No. 132 & 172 Market Squares
Half of No. 134, 245 & 253 District Schools
No. 70 Congregational Church
No. 205 & 224 Female Seminary
No. 150 Masons, Odd Fellows, Sons of Temperance & Lyceum
Public Park
No. 33 & 34 Public Square
No. 255 Cemetery
No. 23 Methodist Church
Pink Line Boundary of Old Survey
Proprietors
Stephen Coffin. D. H. Downsdale
and
W. W. Chapman
32
Capt. Cooch's Addition
Capt. Hall's Purchase
Powers Creek
Thirteenth Street
Twelfth Street
Eleventh Street
Tenth Street
Ninth Street
Eighth Street
Park Avenue
Seventh Street
Sixth Street
Fifth Street
Fourth Street
Third Street
Second Street
First Street
Front Street
Water Street
River

Half of No. 134, 245 & 25
No. 70 Congregation
Town of Portland Oregon
John B Brady Delr.
Capt. Hall's Purchase
Willamette
Capt.
Thirteenth Street
Twelfth Street
Eleventh Street
Tenth Street
Ninth Street
Eighth Street
Park Avenue
Seventh Street
Sixth Street
Fifth Street
Fourth Street
Third Street
Second Street
First Street
Front Street
Water Street
Stephen
32

No. 177 & 232 College
No. 208 Daughters of Temperance
No. 132 & 172 Market Squares
Half of No. 134, 245 & 253 District Schools
No. 70 Congregational Church
No. 150 Masons, Odd Fellows, Sons of Temperance & Lyceum
Public Park
No. 33 & 34 Public Square
No. 255 Cemetery
No. 23 Methodist Church
Pink Line Boundary of Old Survey
Proprietors
and
W. W. Chapman
Capt. Cooch's Addition
Capt. Hall's Purchase
Willamette
River
Powers Creek
Thirteenth Street
Twelfth Street
Eleventh Street
Tenth Street
Eighth Street
Park Avenue
Seventh Street
Sixth Street
Fifth Street
Fourth Street
Third Street
Second Street
First Street
Front Street
Water Street

32

Plan of Portland

F.W. Pettygrove and Benj.n Stark Jr. Proprietors

D

F. W. Pettygrove

Benj.n Stark jr.

Willamett River

All Lots are 50 by 100 feet. Main Street in front of Blocks Nos. 4 & 5 is 30 feet wide – in front of Blocks Nos. 1 & 8 is 60 feet wide. all other streets are 80 feet wide.

To Whom sold	When sold	No: of Lot	No: of Block
William Warren	Jan. 1st 1848	4	27

Nº 134. Page

34

Mapa
de los Terrenos
Para la Colonia

Mapa
de los Terrenos
Para la Colonia
de
Nueva Helvetia
H H Nº 1

B. P. L. Exhibit to deposition
of Juan B. Alvarado _ March 15. 1855

34

A. P.L. Exhibit to deposition of John A. Vioget March 8th 1855

No 92

John A. Sutter

New Helvitia

Filed in office March 8. 1855

Geo. Fisher

Secy

No. 134. Page (No 1)

Linea

Latitud Norte 39° 33° 45"

Los tres Picos

Rancho de Berreyos

Rancho de Muehlenbrink

Rancho Mimalar

Establecimiento de Hegueras

Rancho Hock

Establecimiento de Agricultura

Rancho Olasch Palas Ninas

Rancho de Paso

Tulares

Tierras Estériles

Tule

Rio del

Sacramento

Rio de las Plumas

Rio de las Tierras Estériles

Latitud 39° 1' 45"

Latitud 38° 45' 42"

Establecimiento de la Helvetia

Tierras Esteriles

Lindero Latitud Norte 38° 41' 32"

This is a true copy of the original map made by me in 1841. for Cap. A. Sutter made in 1853 Except some dotted lines wanting: to mark swampy Lands. in the original map.

Pulgos Rancho 24th Jan 1854 John Jn Vioget

Mapa

de los Terrenos

Para la Colonia

de

Nueva Helvetia

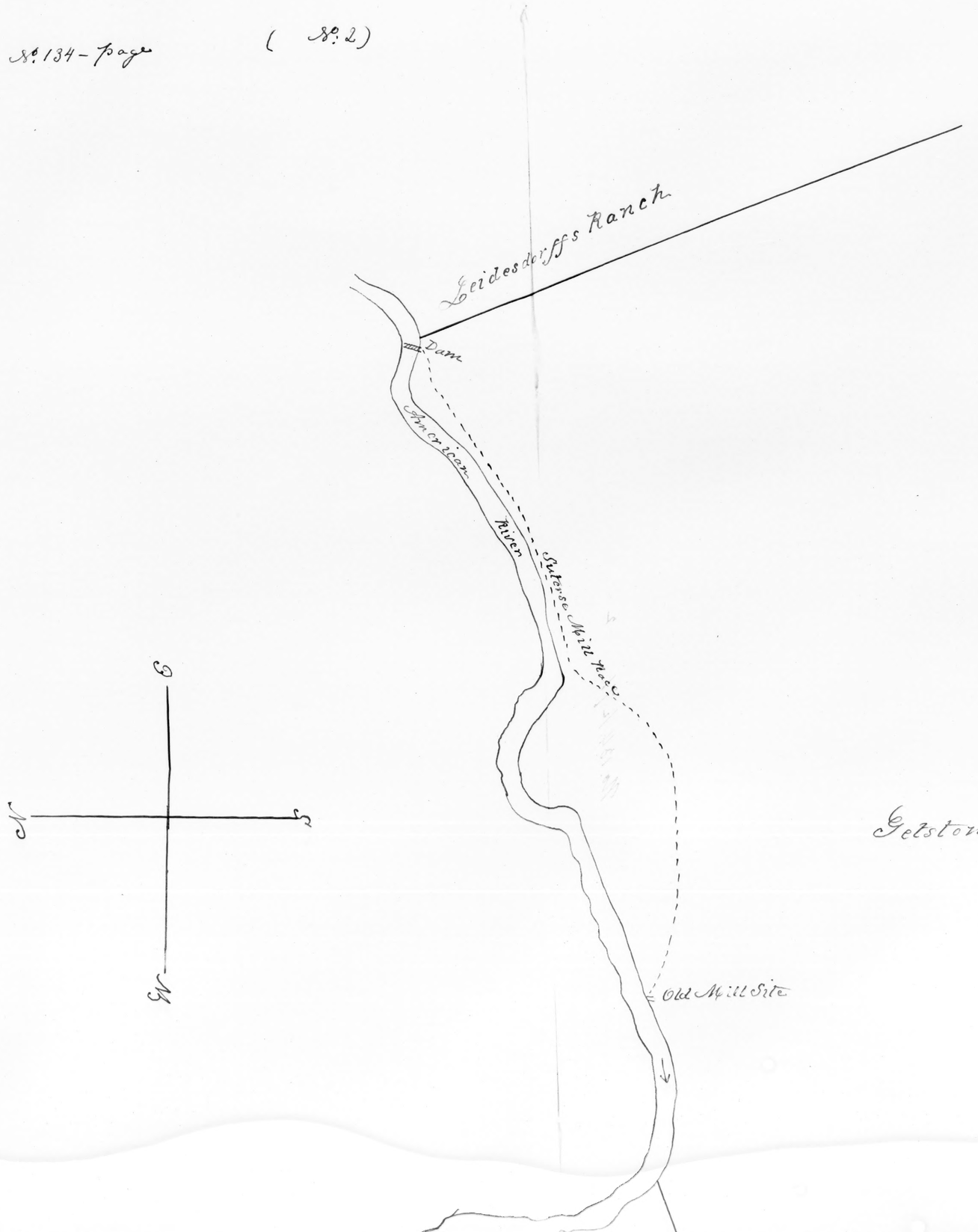
J. Vioget Jr. 1843.

Escala de Millas Terrestres

1 2 3 6 9 12 15 18 21 24 milla

35

No. 134 - Page (No. 2)



Gelston's Tract

36

N
S
W
Getston's Tract
Old Mill Site
Nonistown
American
River
Sutters Fort
Sacramento City
Sacramento
River

36

Map
of a part of

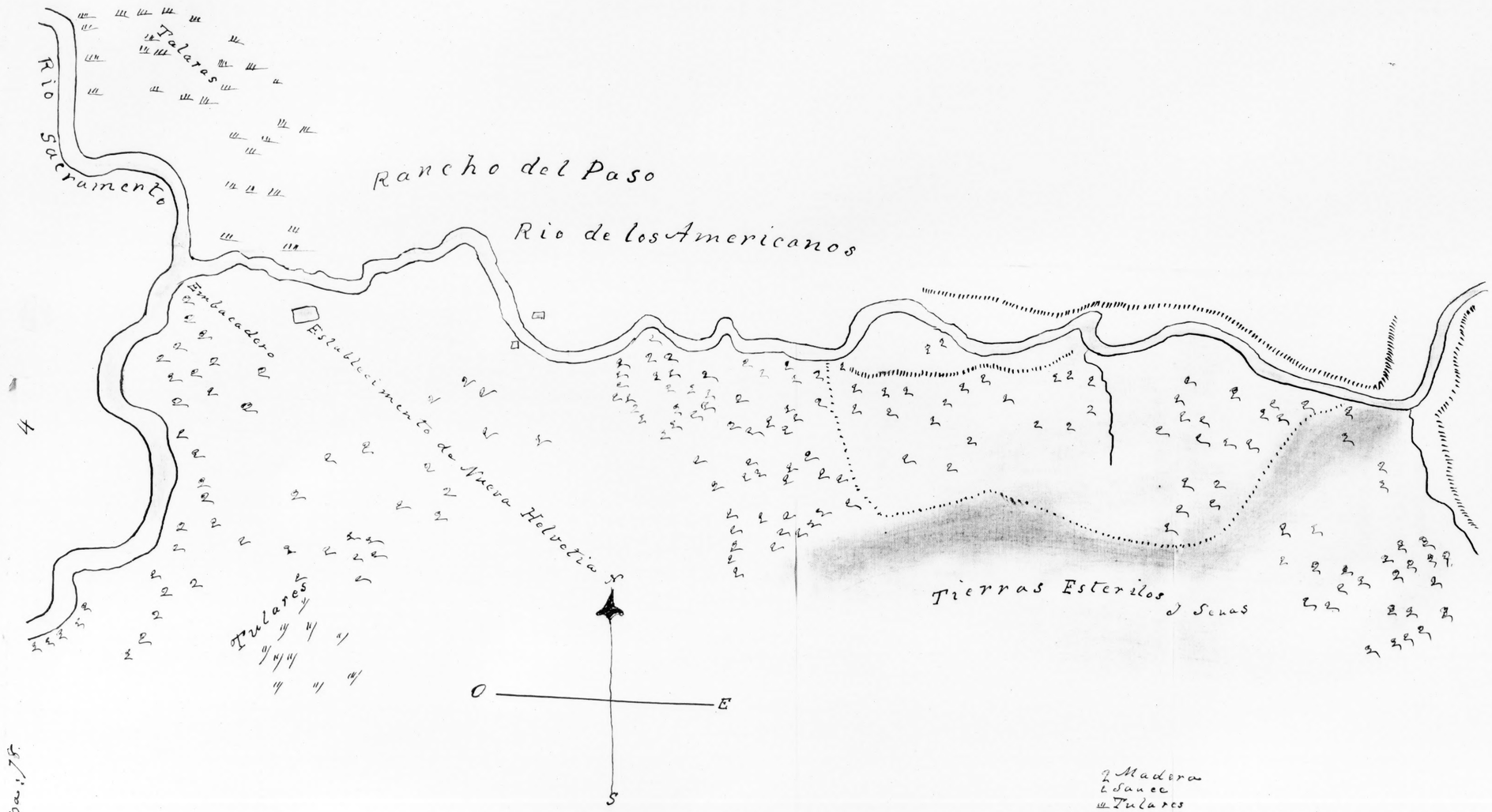
New Helvetia

From the Survey of
R. A. Chase Aug. 1850

Scale of Miles
0 ¼ ½ ¾ 1 mile 2 miles 3 miles

H. H. No 1

36


Rio Sacramento
Talares
Rancho del Paso
Rio de los Americanos
Embarcadero
Establecimiento de Nueva Helvetia
Tulares
Tierras Esteriles y Senas
O
E
S
Escala de Leguas
1
2
Madera
Sauce
Tulares
Orillas y Cerros Elevados
Casas

37

X.Y.Z. No 1 annexed to a stipulation filed in case No 92 John A. Sutter against The United States

No. 92

John A. Sutter
New Helvetia

Filed in office June 28 1854

Geo. Fisher

Seey

Explanations

Points on the respective rivers ascertained from actual Survey

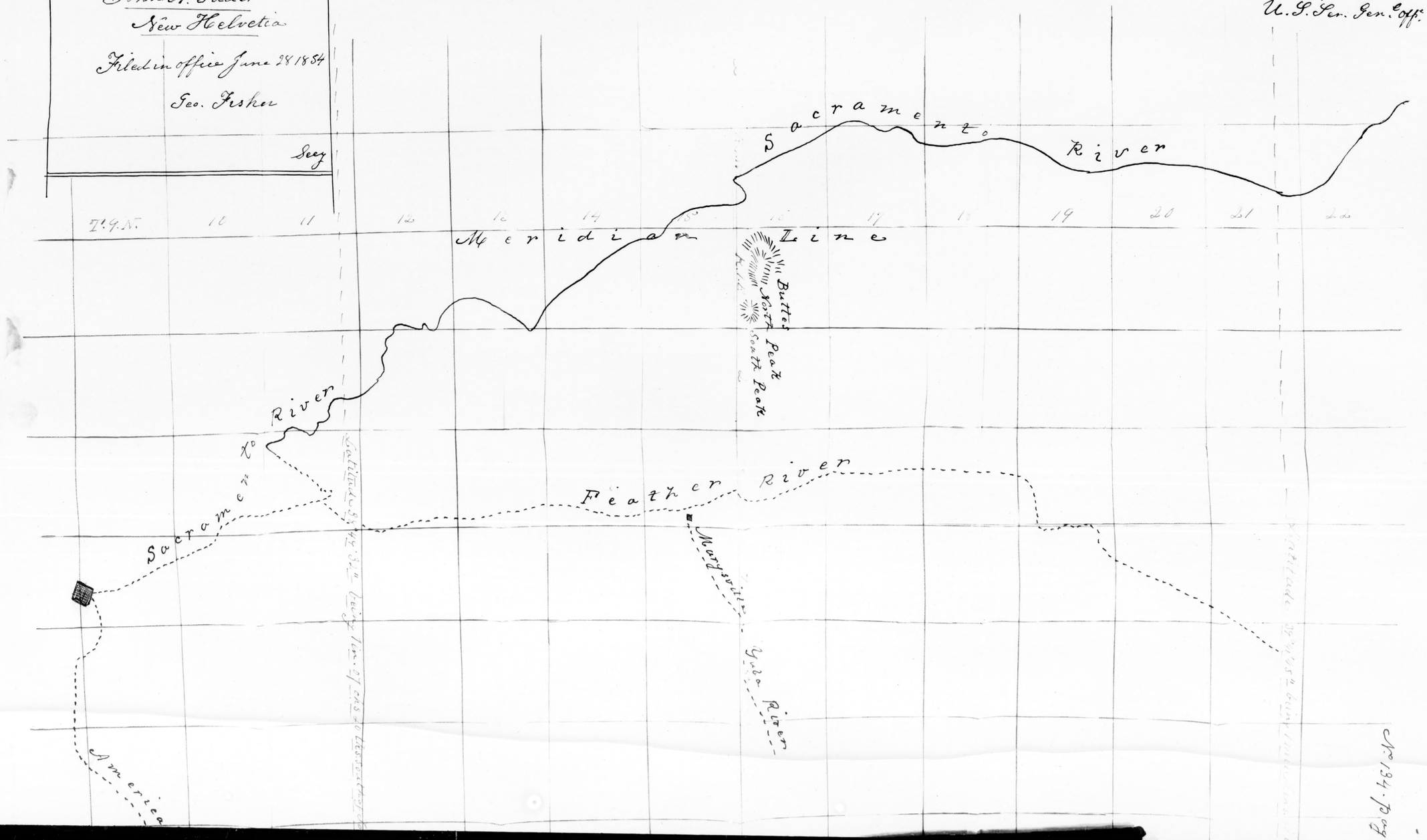
" " " Supposed or conjectured

Range and township lines, 6 miles apart

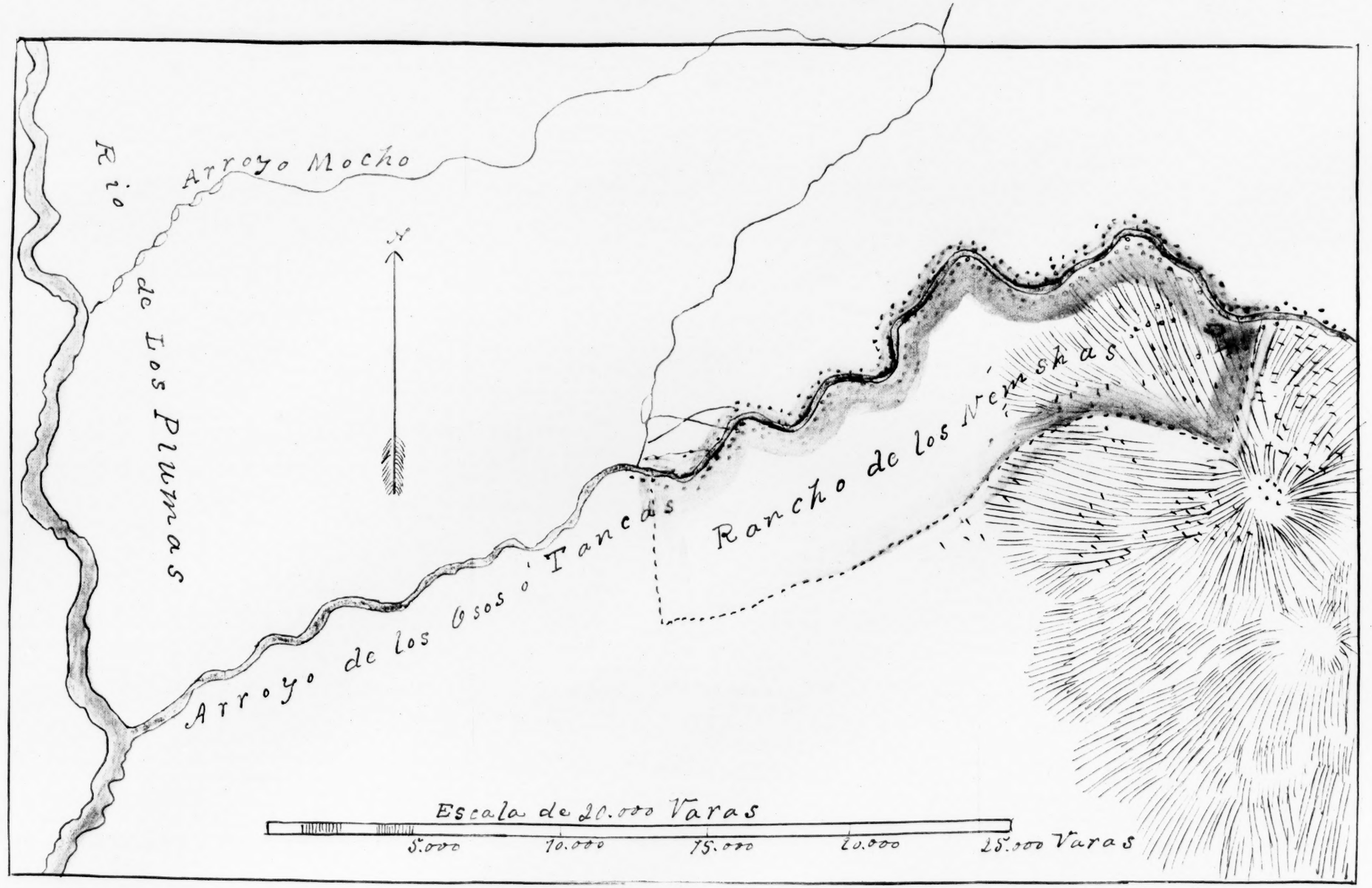
Lines of parallels of Latitude accurately calculated by taking the latitude of Mount Diablo, as determined by the coast Survey as the basis.

I believe these lines and explanations to be correct.
San Francisco. Cal:
June 17th 1854

Leander Ransom
chf. clk.
U.S. Ser. Genl. Offc.



No 134. Page



No. 134 – Page 239.

Sierra Nevada

Rio de las Plumas

Rio Yaba

Arroyo de los Osos

Rio del Sacramento

Los tres pecos

Rancho pedido pr los hijos de Martin

Rancho que Solicita Irmena

Lindero

Lindero

Estero

Rancho de Handy

Rancho de Gordon

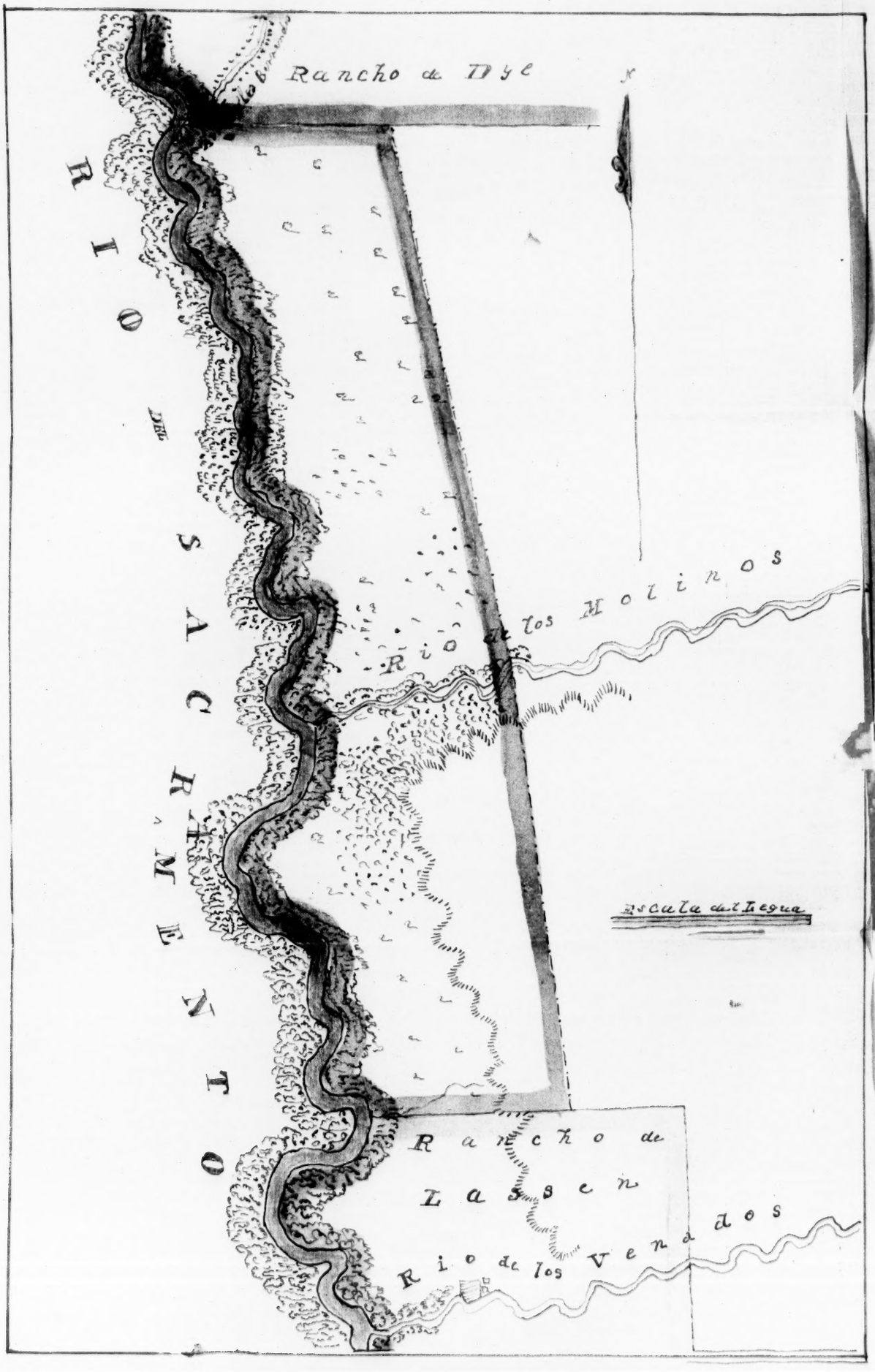
Monte

Norte

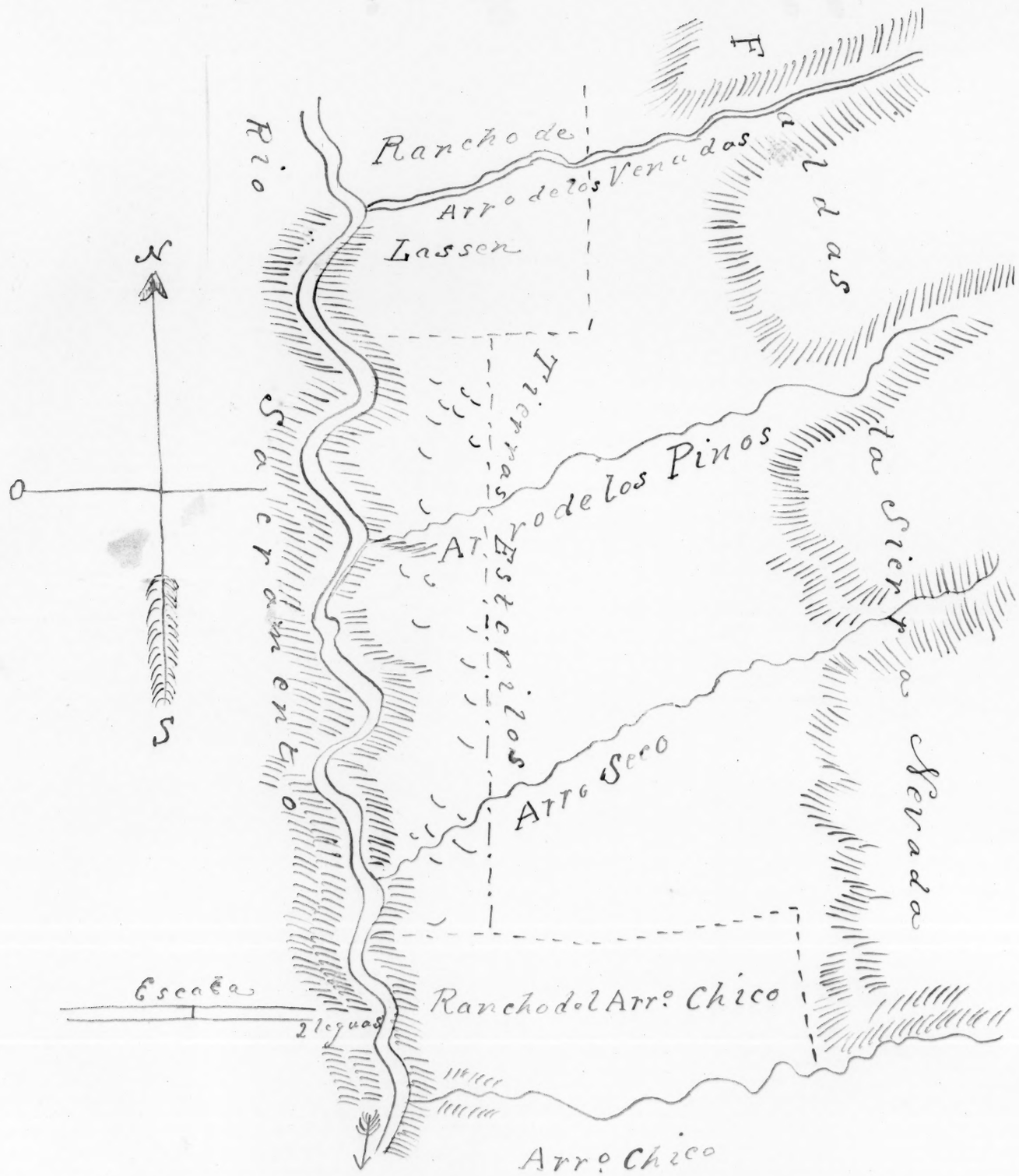
Escala de once leguas

8.º 134 — Ba: 2/3

40

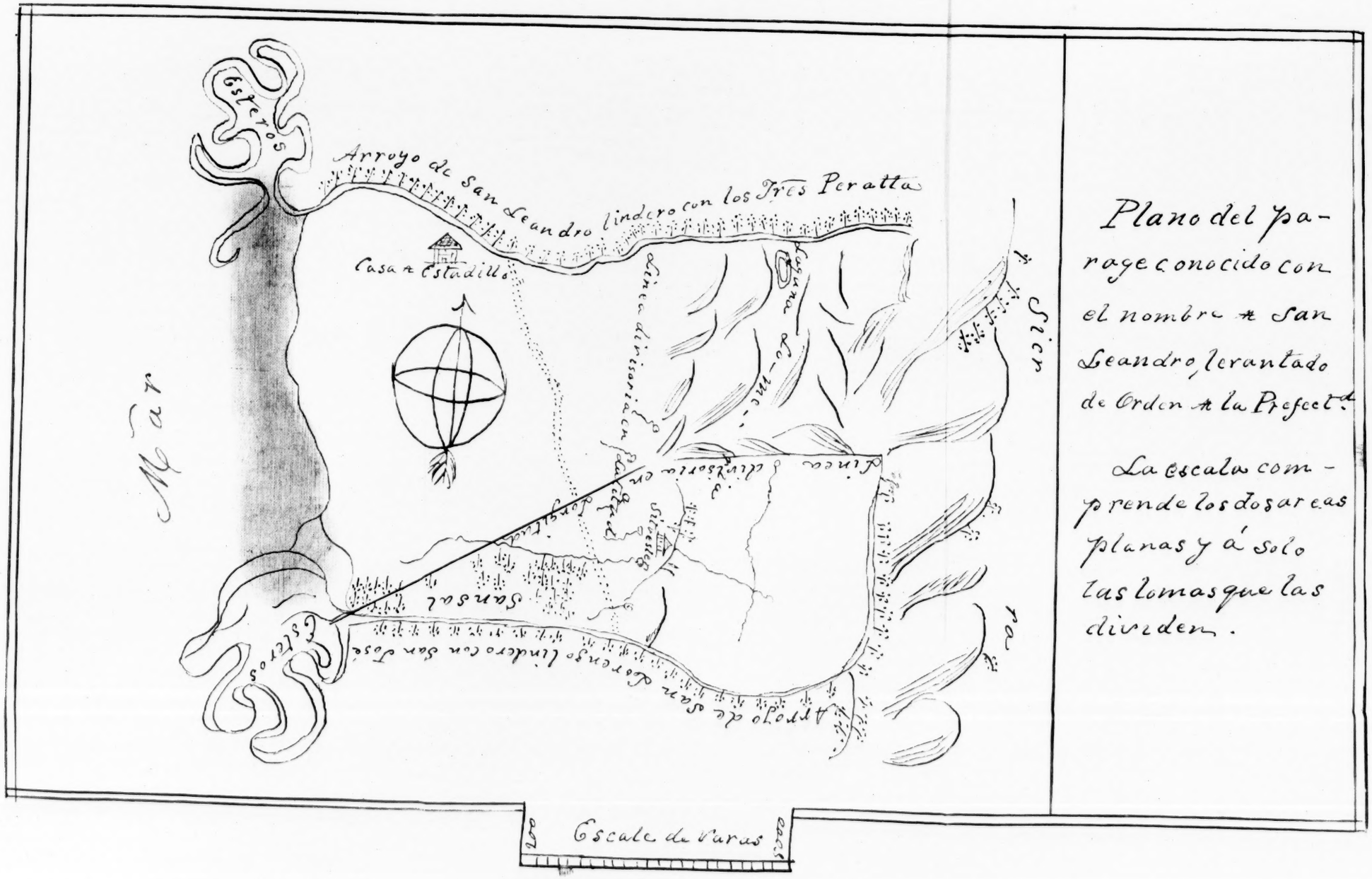

Rancho de Dye
RIO SACRAMENTO
Rio de los Molinos
Escala de 1 legua
Rancho de Lassen
Rio de los Venados

41



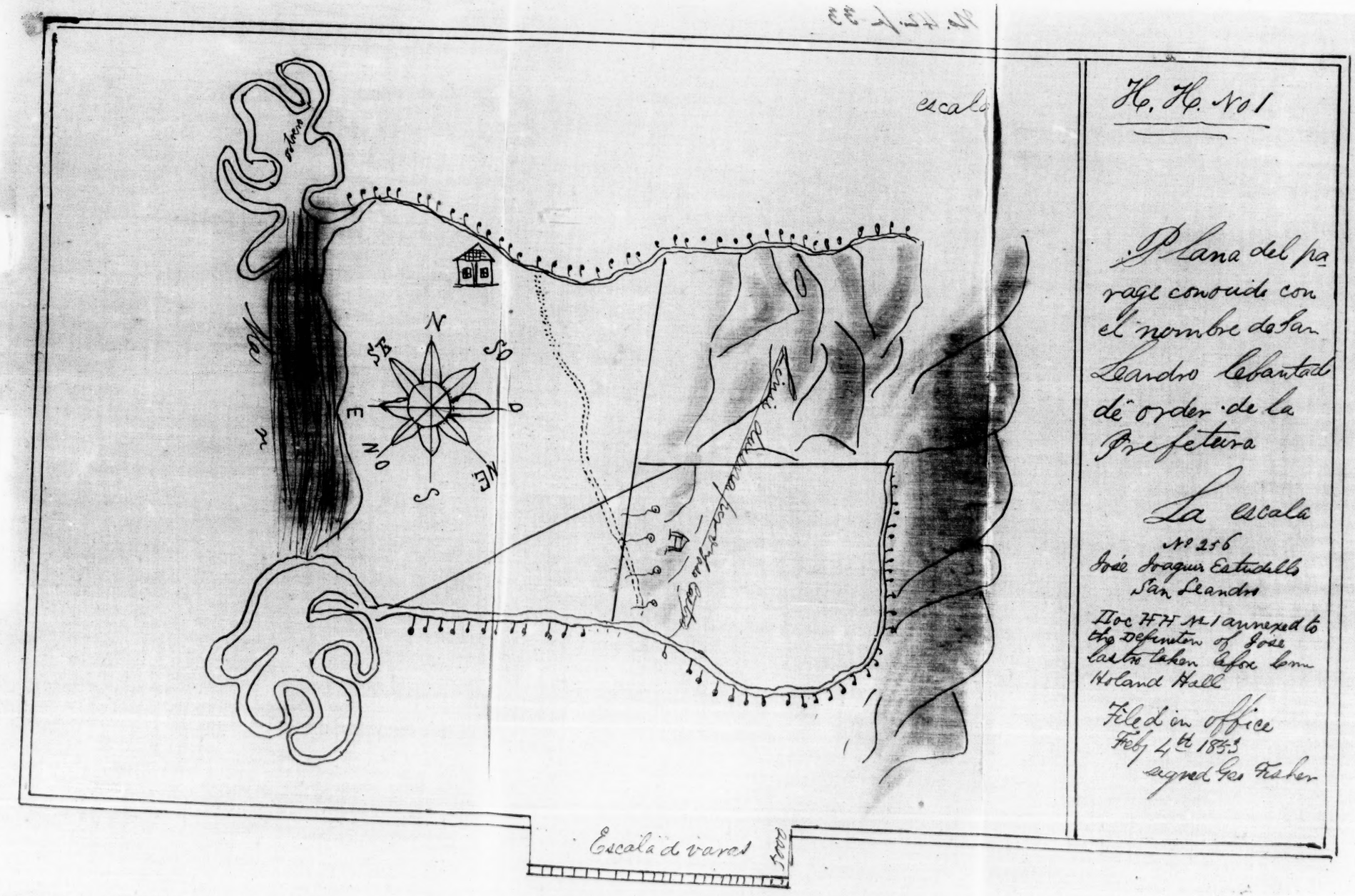
No 189. fol. 6

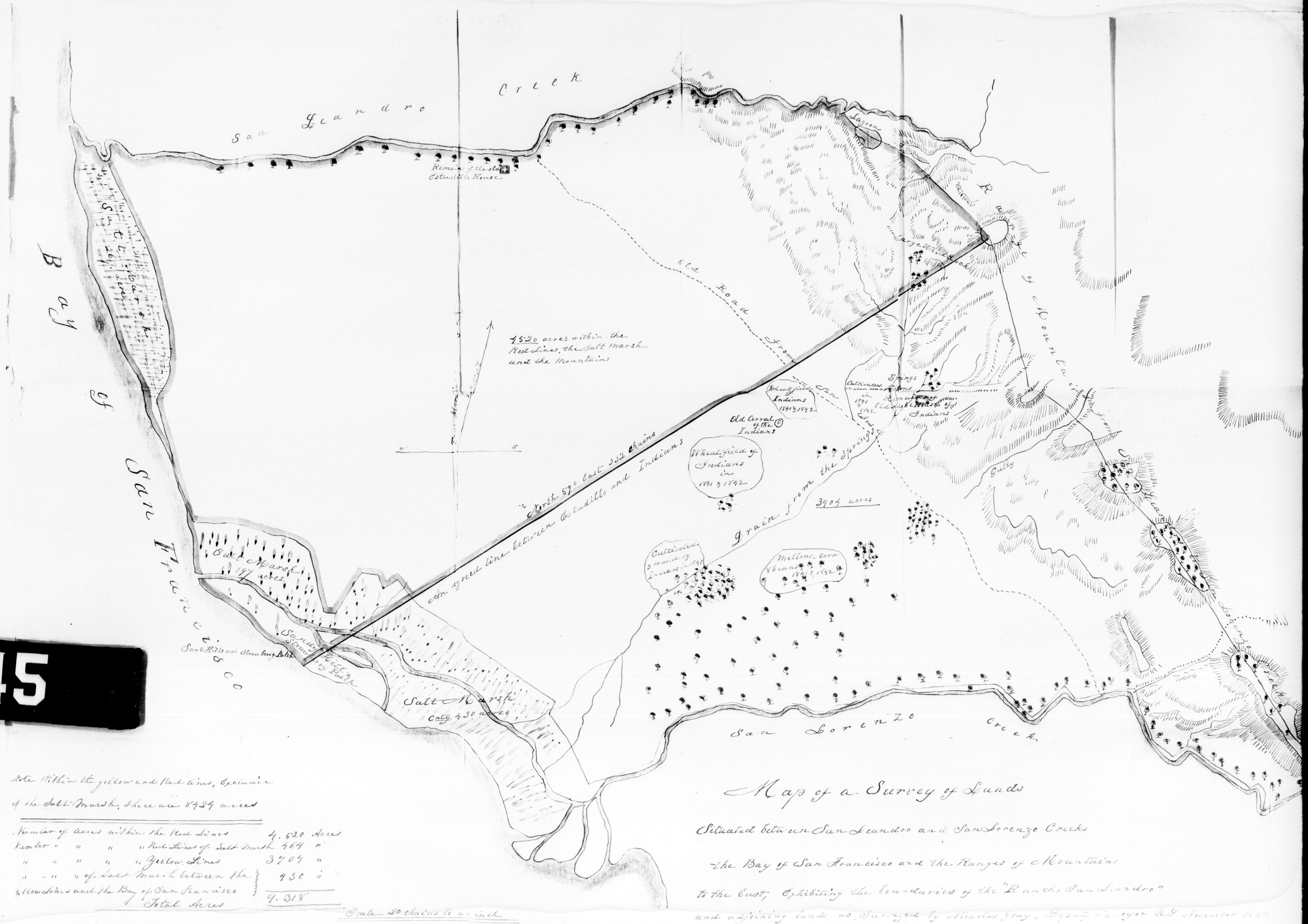
42



Plano del parage conocido con el nombre de San Leandro, levantado de Orden de la Prefectura.

La escala comprende los dos areas planas y á solo las lomas que las dividen.


H. H. No 1
Plana del parage conocido con el nombre de San Leandro levantado de orden de la Prefetura
La escala
No 256
José Joaquin Estudillo
San Leandro
Doc HH No 1 annexed to the Definition of José Castro taken before Com Holand Hall
Filed in office
Feby 4th 1853
signed Geo Fisher
escala
N
SE
SO
E
O
NO
NE
S
Escala de varas
5000



45

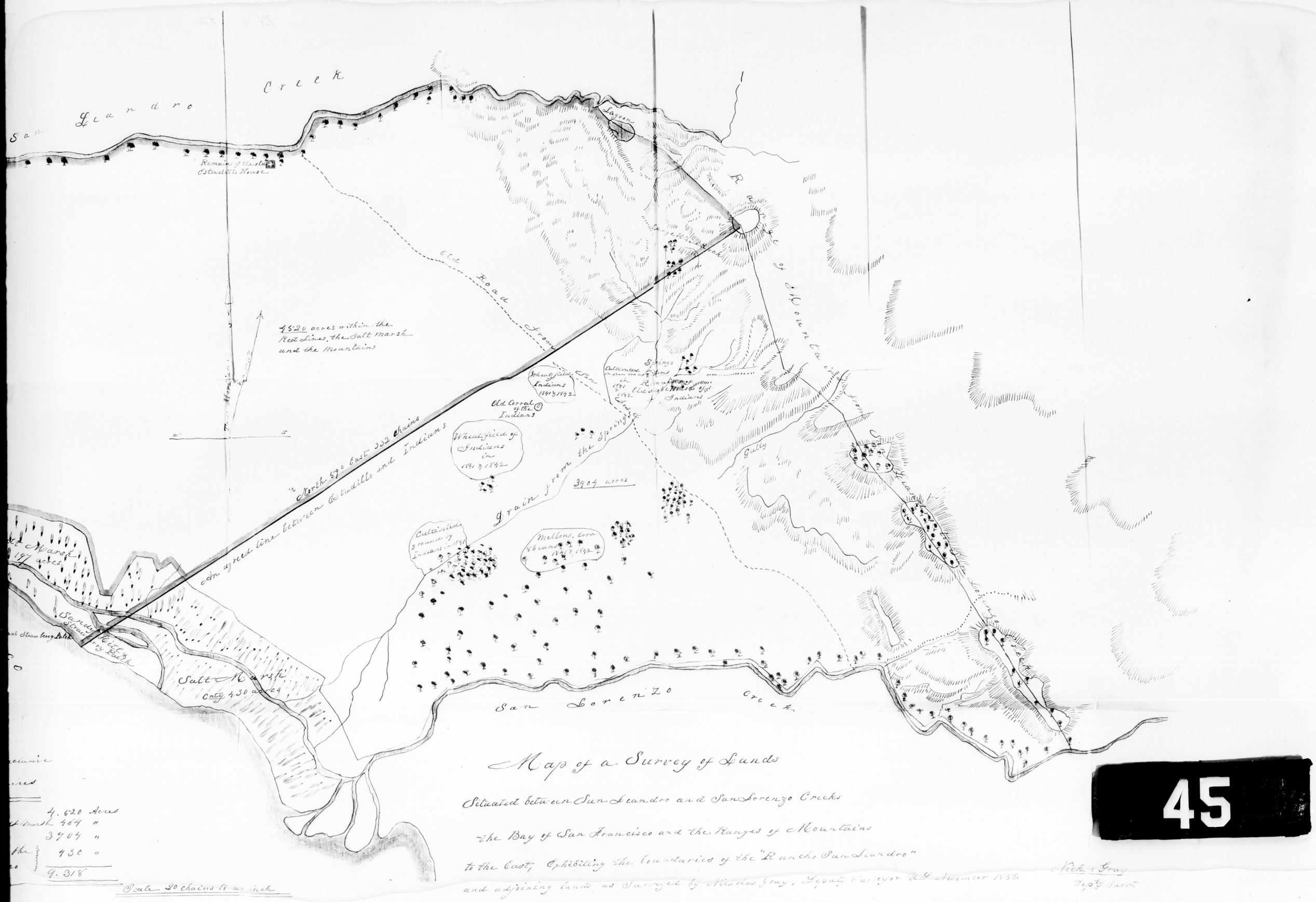
Note Within the yellow and Red lines, Exclusive of the Salt Marsh, there are 8424 acres

Number of acres within the Red Lines	4.520 Acres
Number " " " " Red Lines of Salt Marsh	464 "
" " " " " Yellow Lines	3904 "
" " " of Salt Marsh between the Yellow Lines and the Bay of San Francisco	430 "
Total Acres	9.318

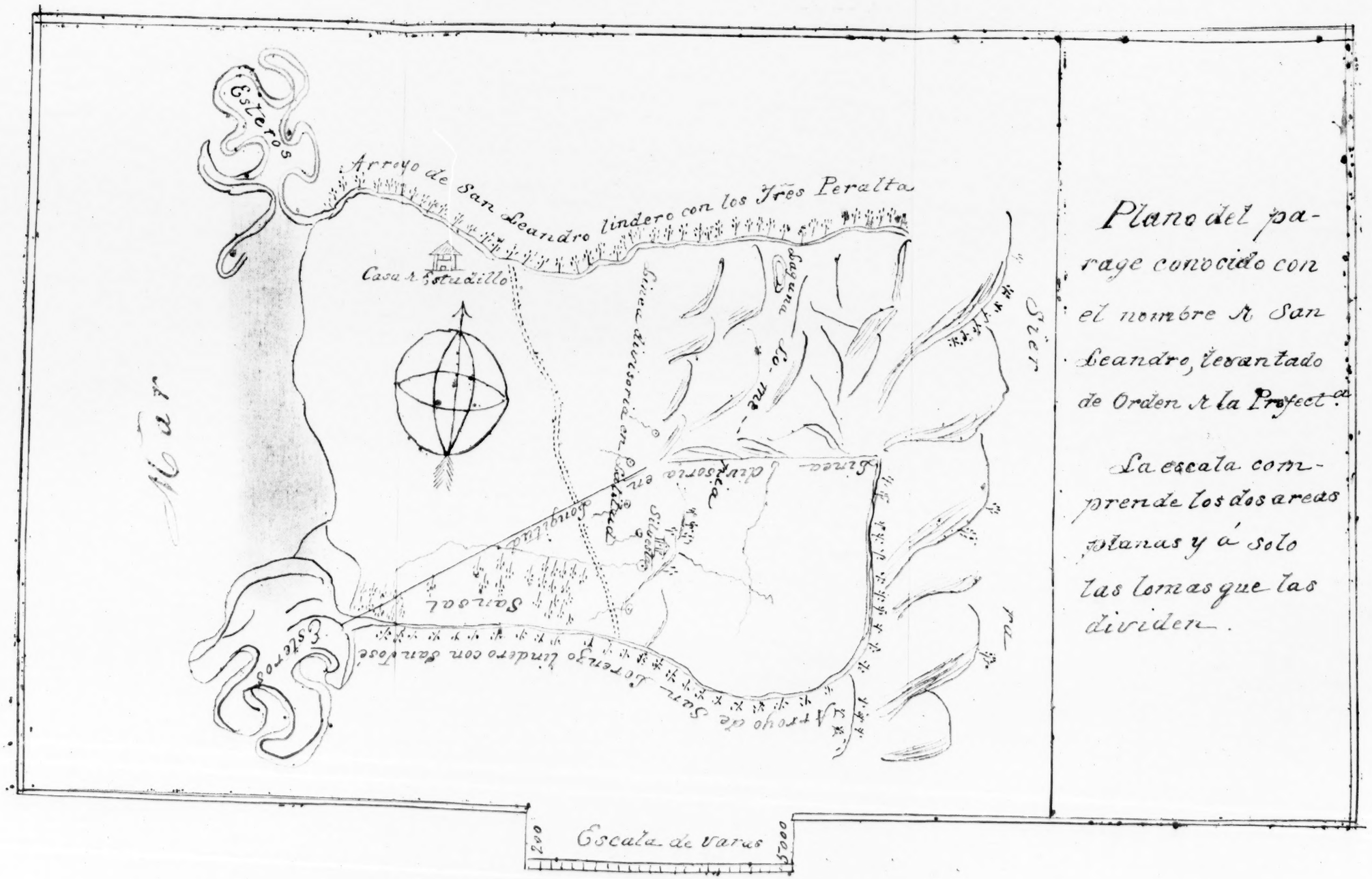
Scale 20 chains to an inch

Map of a Survey of Lands

Situated between San Leandro and San Lorenzo Creeks the Bay of San Francisco and the Ranges of Mountains to the East, Exhibiting the boundaries of the "Rancho San Leandro" and adjoining lands as Surveyed by Nicholas Gray, Deputy Surveyor U.S. November 1855.


San Leandro Creek
Remains of the old Estudillo House
Lagoon
Range of Mountains
Old Road from San Jose
4520 acres within the Red Lines, the Salt Marsh and the Mountains
Wheat field of Indians 1841 & 1842
Old Corral of the Indians
Wheat field of Indians in 1841 & 1842
Cultivated in Corn Beans in 1841 & 1842
Springs
Remains of Old Shoe House of Indians
Grain from the Springs
3904 acres
Cultivated ground by Indians in 1841
Mellons, Corn 86 cans 1841 & 1842
North 590 East 332 chains
An agreed line between Estudillo and Indians
Salt Marsh 197 acres
Sandy Hill & Strawberry Patch
Salt Marsh Cnty. 430 acres
Gully
San Lorenzo Creek
Map of a Survey of Lands
Situated between San Leandro and San Lorenzo Creeks
the Bay of San Francisco and the Ranges of Mountains
to the East, Exhibiting the boundaries of the "Rancho San Leandro"
and adjoining lands as Surveyed by Nicholas Gray, Deputy Surveyor U.S. November 1855.
Nich: Gray
Dep^ty Surv^r
4.520 Acres
Marsh 464 "
3904 "
430 "
9.318
Scale 20 chains to an inch

45



Plano del paraje conocido con el nombre R San Leandro, levantado de Orden R la Prefect.a

La escala comprende los dos areas planas y á solo las lomas que las dividen.

47

Rancho de Jesus Vallejo

Rancho de Amador

Rancho de Sn Ramon

Rancho de Moraga

Rancho de los Perales

Plan de Sn Lorenzo Escala de seis cuadras

Canal

Arroyo de San Leandro

Arroyo que corre de los Sanchez

Arroyo de las Yeguas

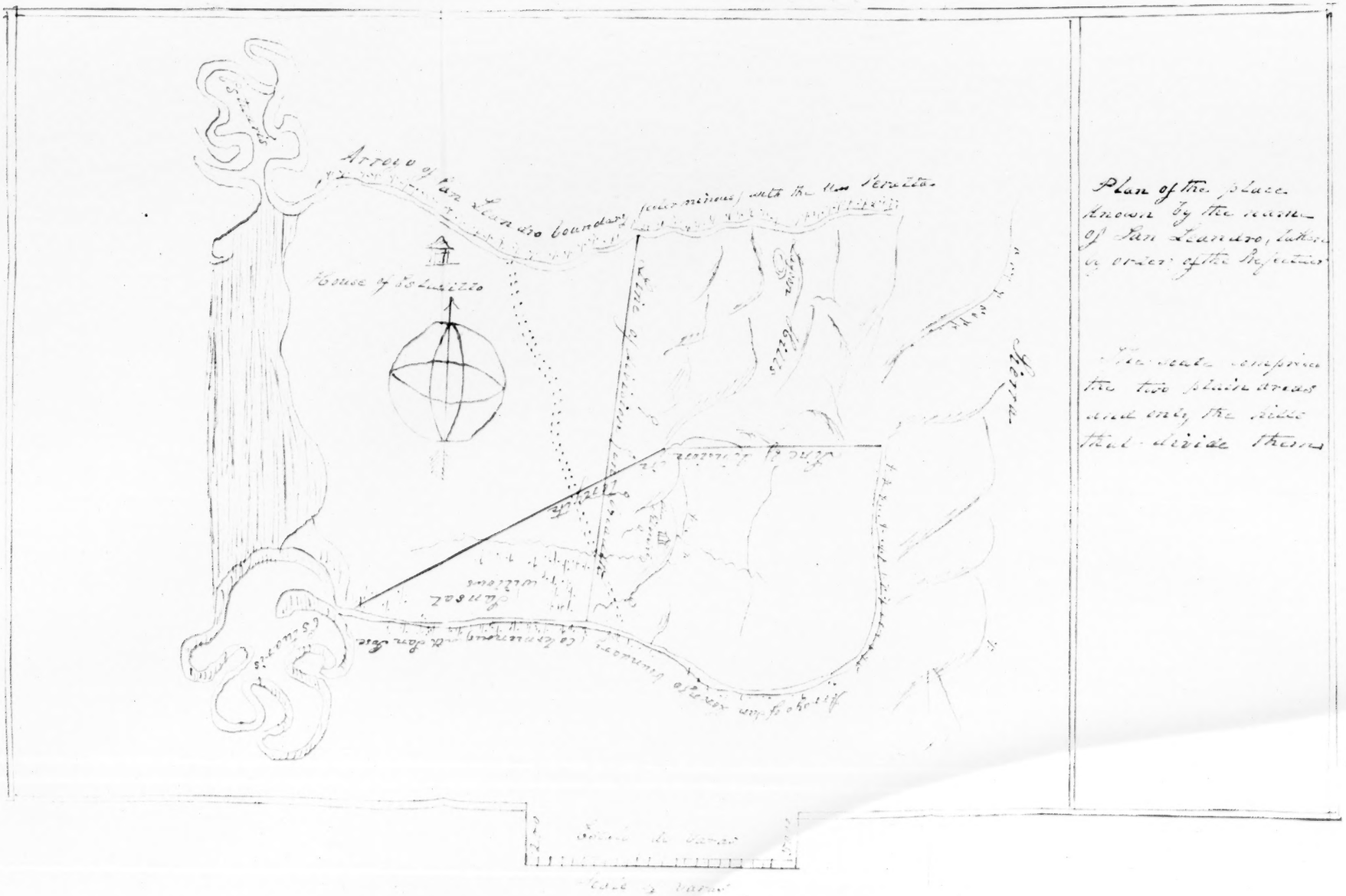
Plan de Sn Lorenzo

Casa

Camino de S. Leandro

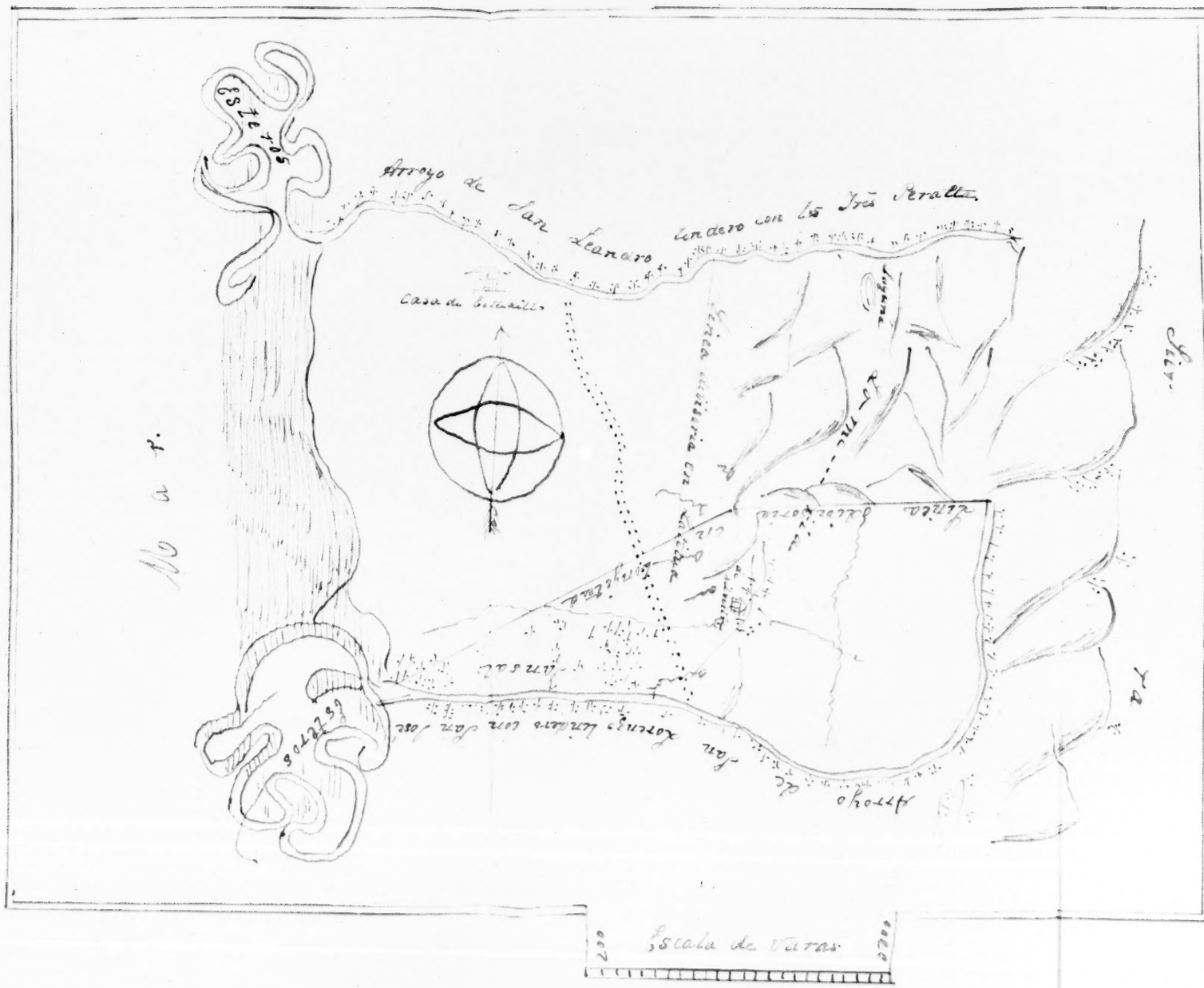
Rancho de Sn Jose Estudillo

Rancho de Sn Antonio



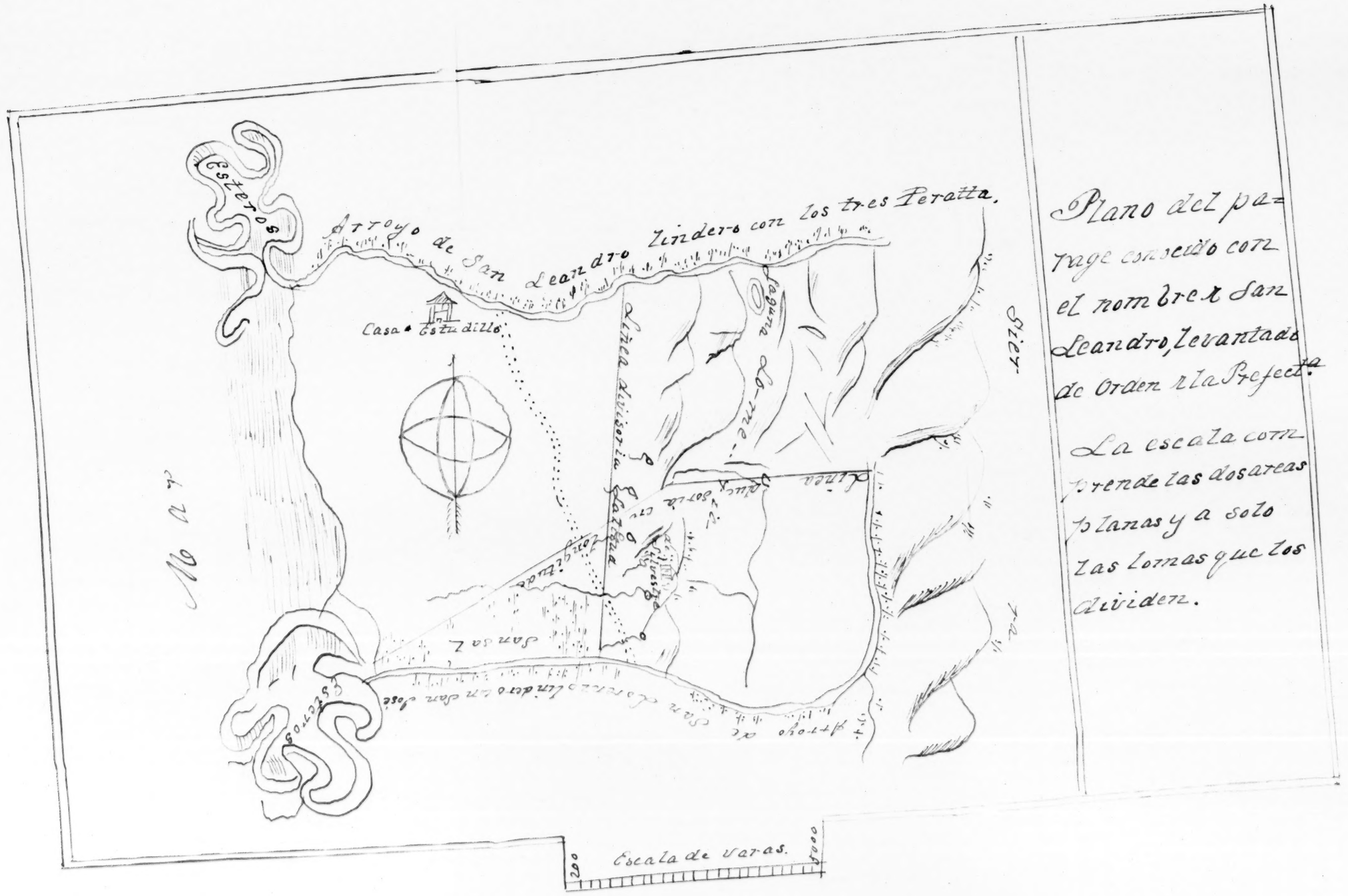
Plan of the place known by the name of San Leandro, taken by order of the Prefecture

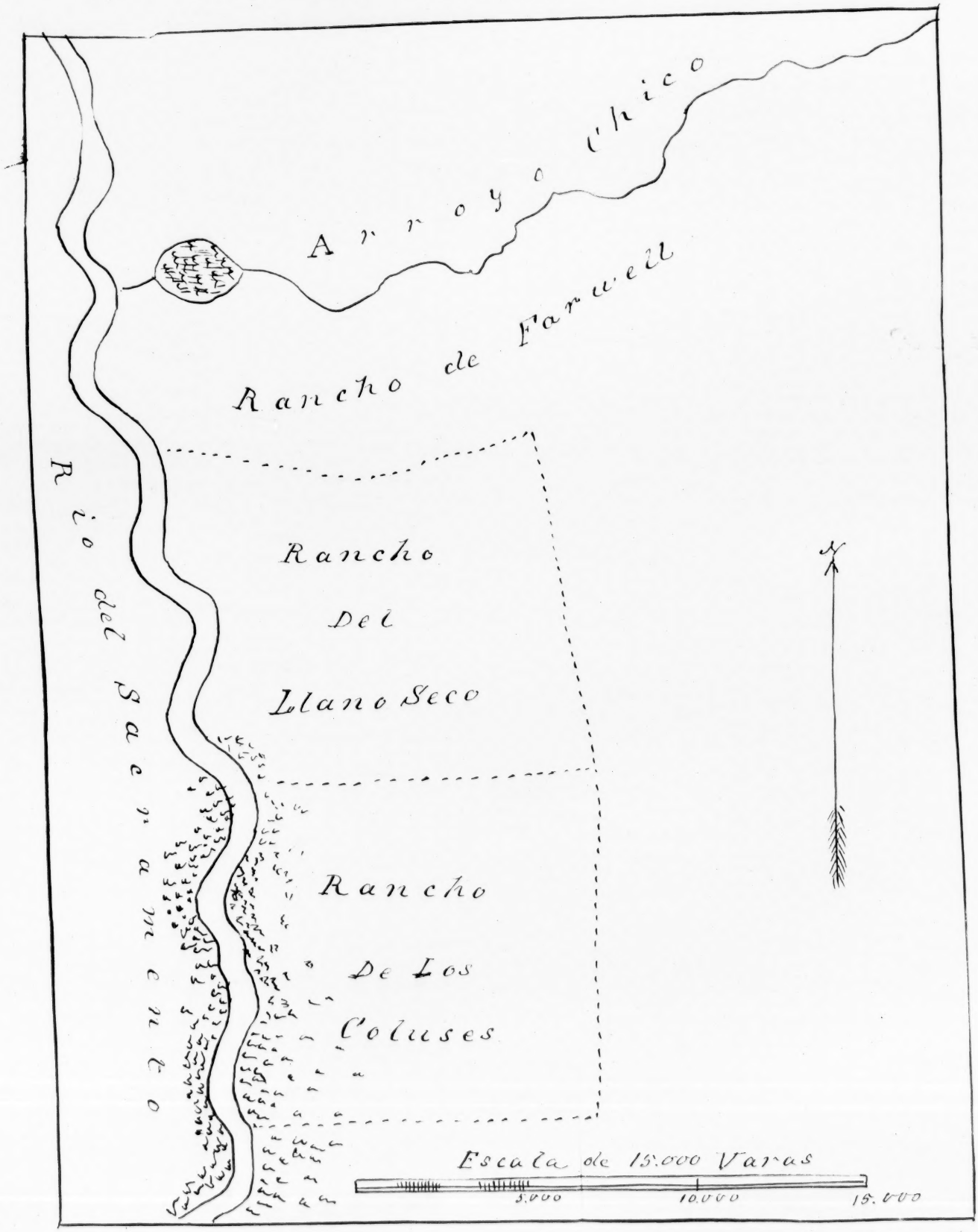
The scale comprises the two plain areas and only the hills that divide them



Plano del parage conscido con el nombre de San Leandro, levantado de Orden de la Prefectura

La escala comprende las dos arcas planas y a solo las lomas que las dividen.


Plano del parage conocido con el nombre de San Leandro, levantado de Orden de la Prefect.ª
La escala comprende las dos areas planas y a solo las lomas que los dividen.
Arroyo de San Leandro lindero con los tres Peratta.
Esteros
Casa Estudillo
Linea divisoria Latitud
Laguna Lo-me-
Linea divisoria Longitud
Silvestre
San Sal
Arroyo de San Lorenzo lindero en San José
Esteros
Sierra
Mar
Escala de varas.
200
5000

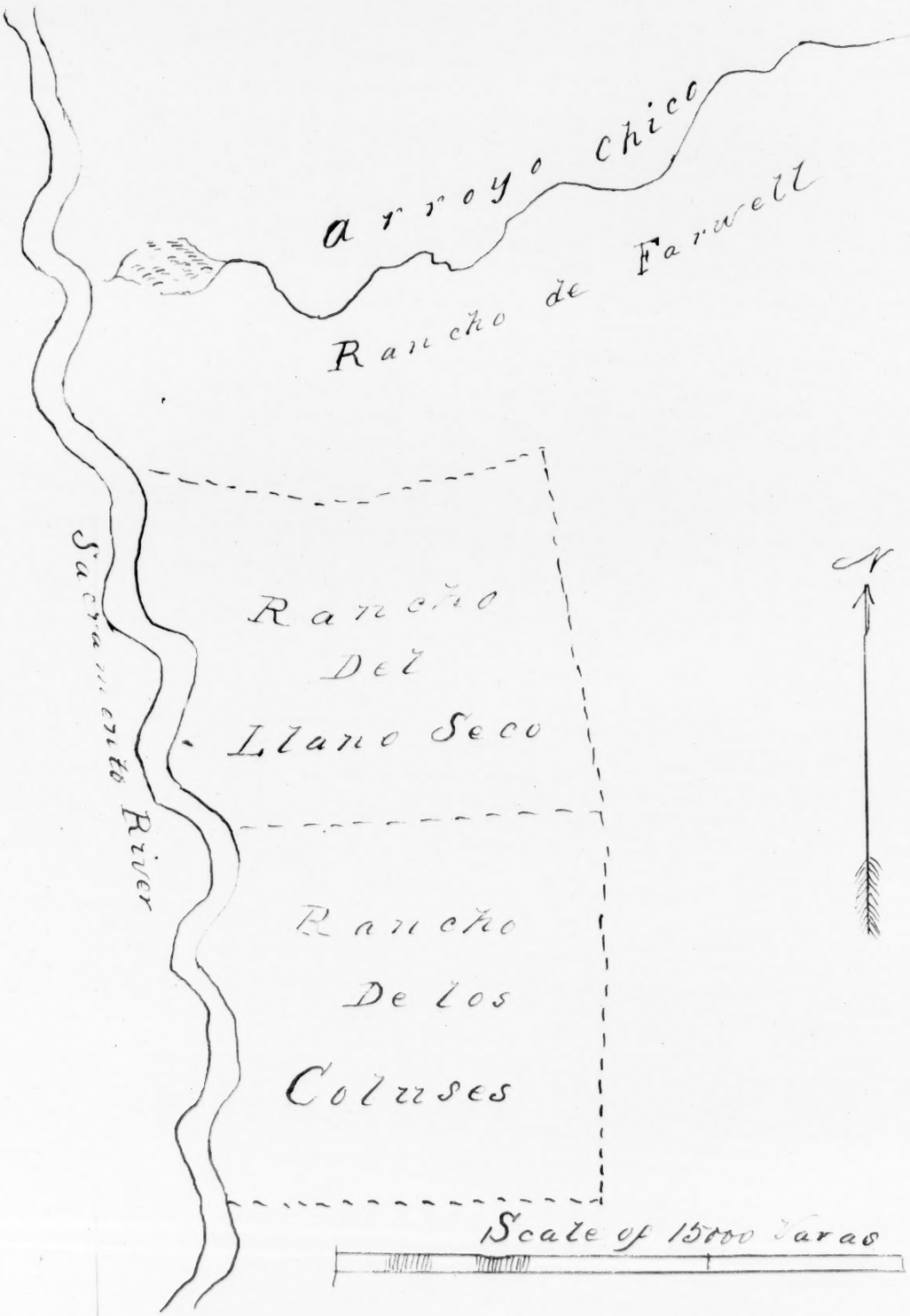

Arroyo Chico
Rancho de Farwell
Rancho
Del
Llano Seco
Rancho
De Los
Coluses
Rio del Sacramento
Escala de 15.000 Varas
5.000
10.000
15.000

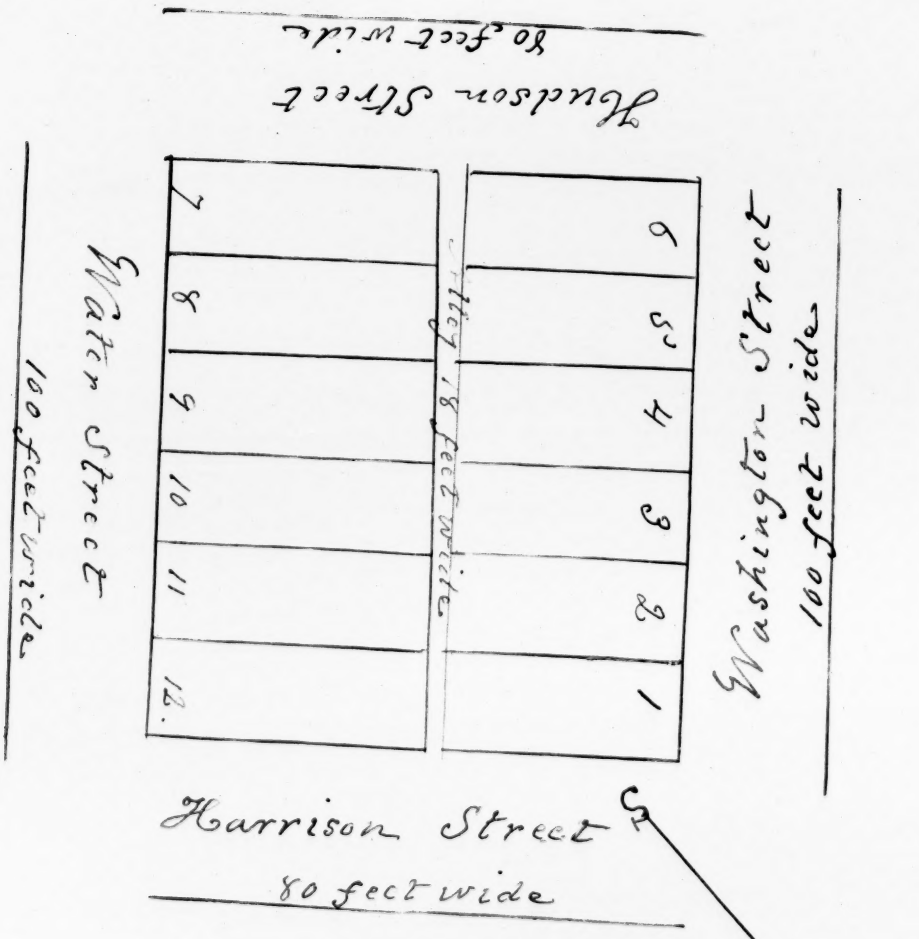
1.

142 - Jos.

Nº 142. pag.

Map 2

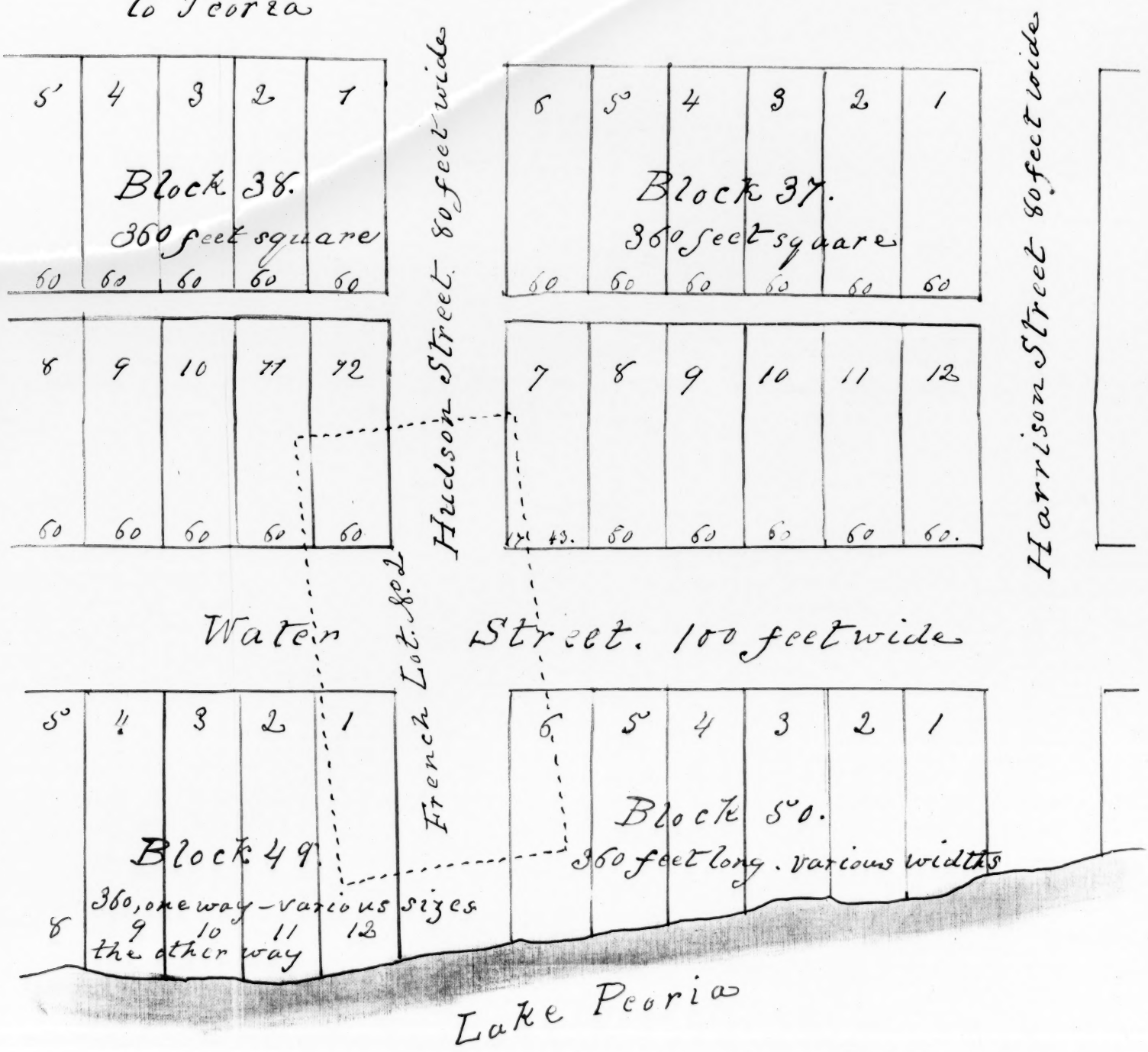




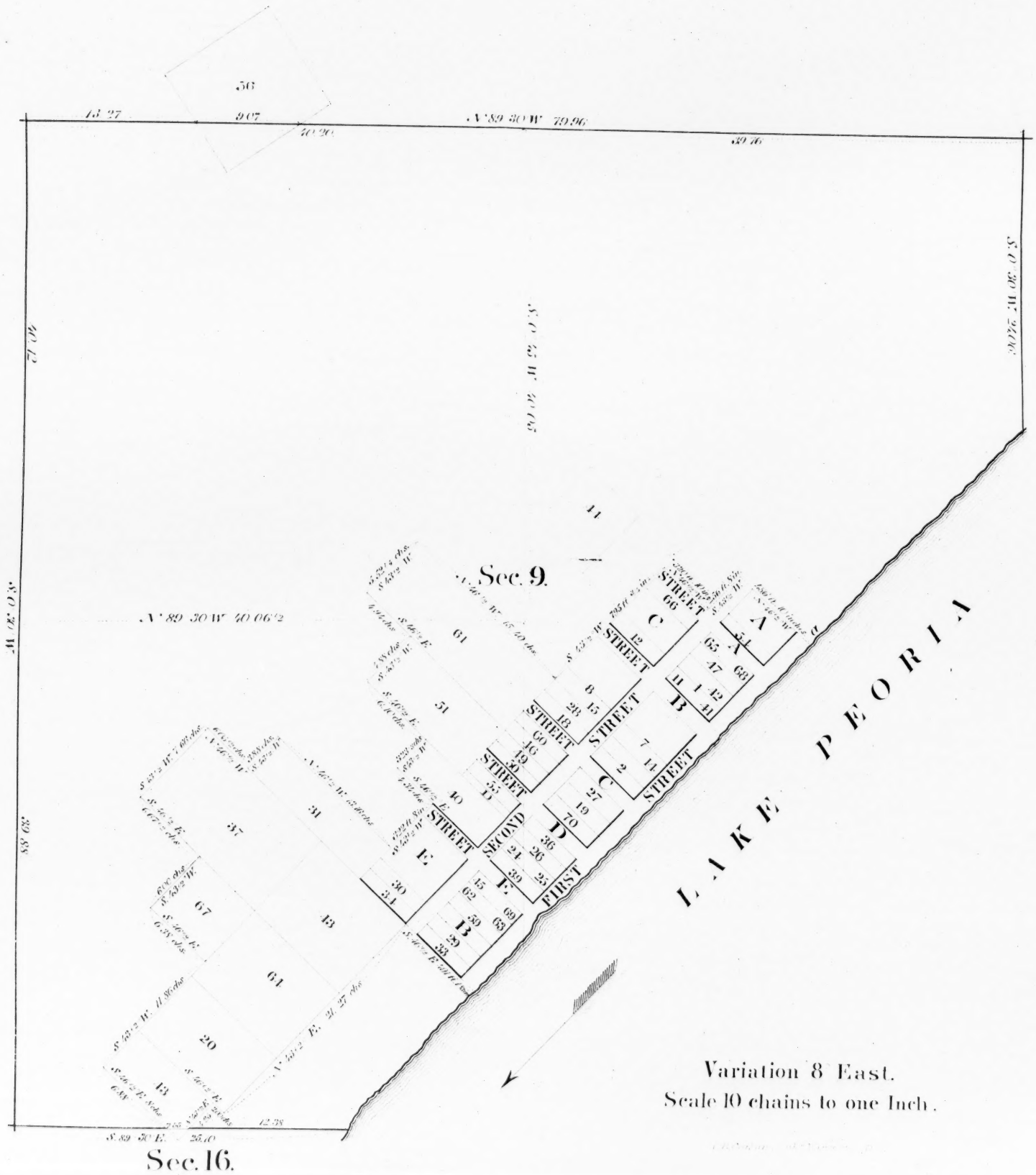
Plat of Block 37. in Bigelow and Under-
wood's Addition to Peoria. - The Block is 860
feet square; and consequently the lots are
all 60 feet wide, and 171 long. -

No. 148 – page 28.

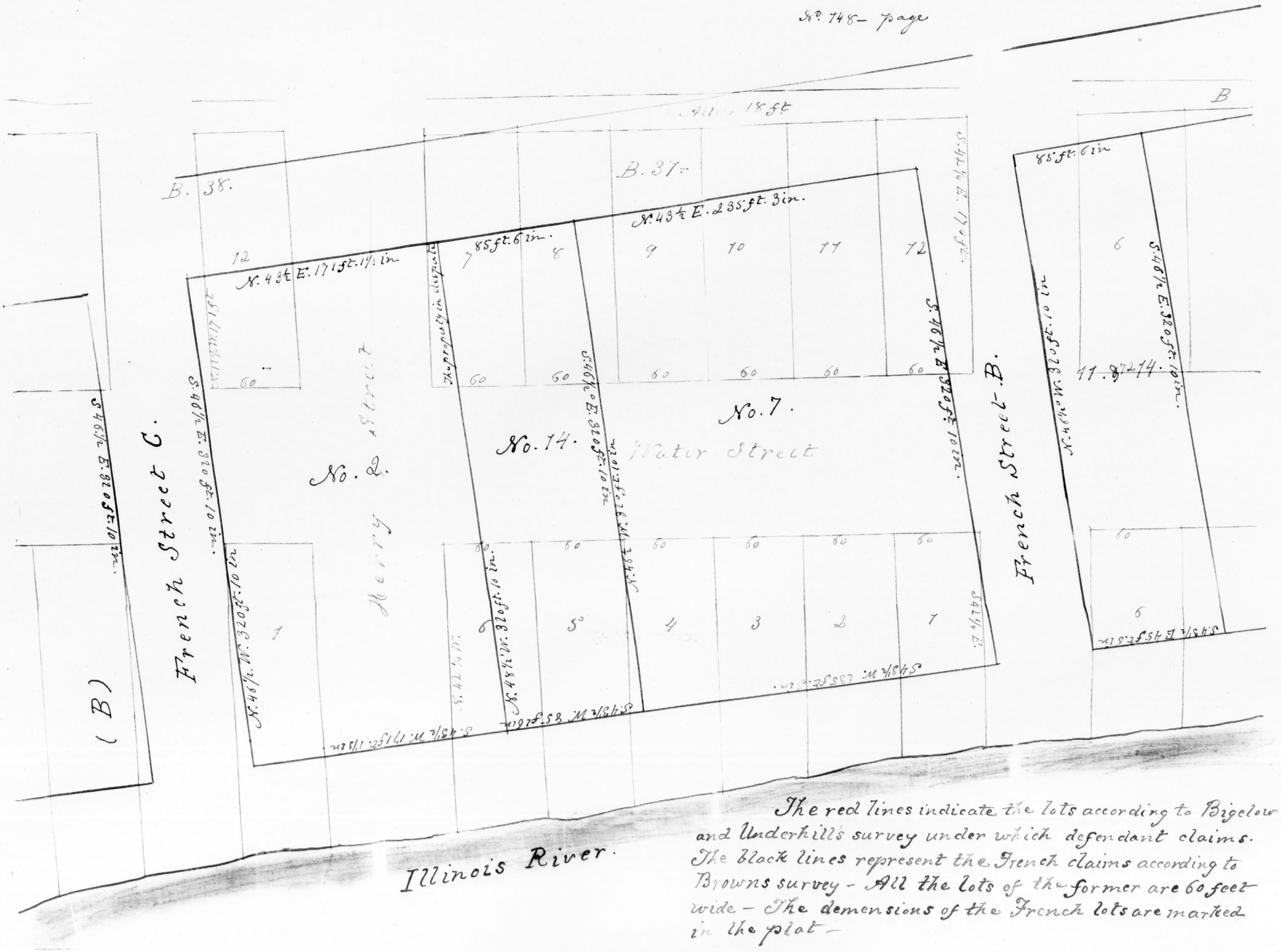
Plat showing the connection of lot No. 2. of the survey approved September 7th 1840. with Lot 7 in Block 37. of Bigelow and Underhill's Addition to Peoria



Lot 2. or the Rogue Lot, is represented by dotted lines – The part of Lot 7. which it covers, and which is the property in controversy in this suit is about 90 feet long, and 14 feet wide at one end and 17. at the other –

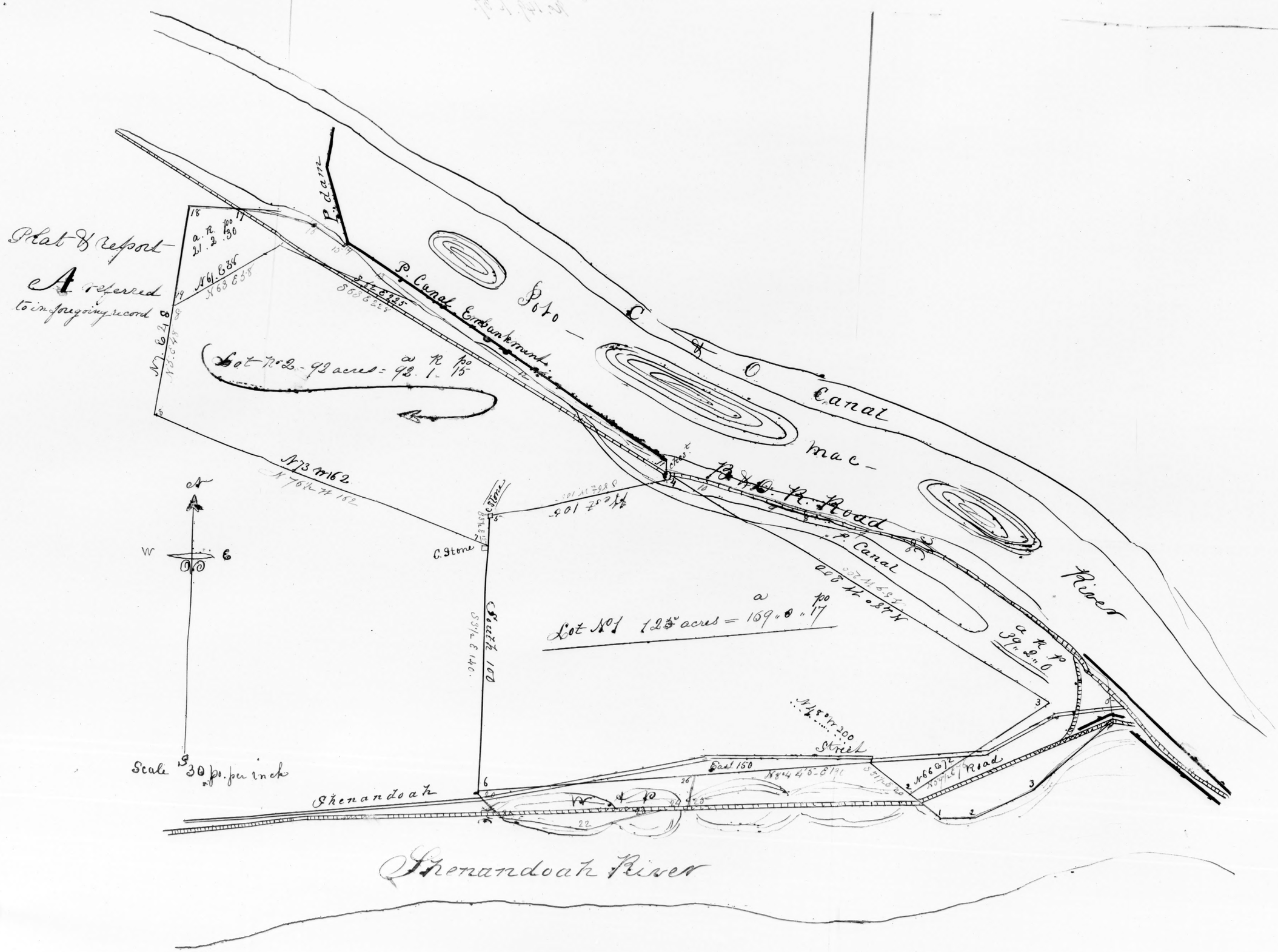


Variation 8 East.
Scale 10 chains to one Inch.



The red lines indicate the lots according to Bigelow and Underhill's survey under which defendant claims. The black lines represent the French claims according to Browns survey – All the lots of the former are 60 feet wide – The demensions of the French lots are marked in the plat –

No 14 page 87



Plat & report
A referred
to in foregoing record
P. dam
P. Canal Embankment
Lot No 2 - 92 acres = 92 a 1 R 15 po
Lot No 1 125 acres = 169 a 0 R 17 po
Potomac River
C & O Canal
B & O R. Road
P. Canal
a R po 39 2 0
N 73 W 162
N 76½ W 162
C. Stone
South 100
East 150
Street
Road
Shenandoah
Shenandoah River
Scale 30 po. per inch

Plat & report B referred to in
& made part of record in of regoing
& attached record U. Stubling clk
Byrne Island
Potomac
McPherson's Island
Charlestown Road
Superintendent's House
Canal
Rifle
Factory
Virginius
SHENANDOAH RIVER.
Throp's Island

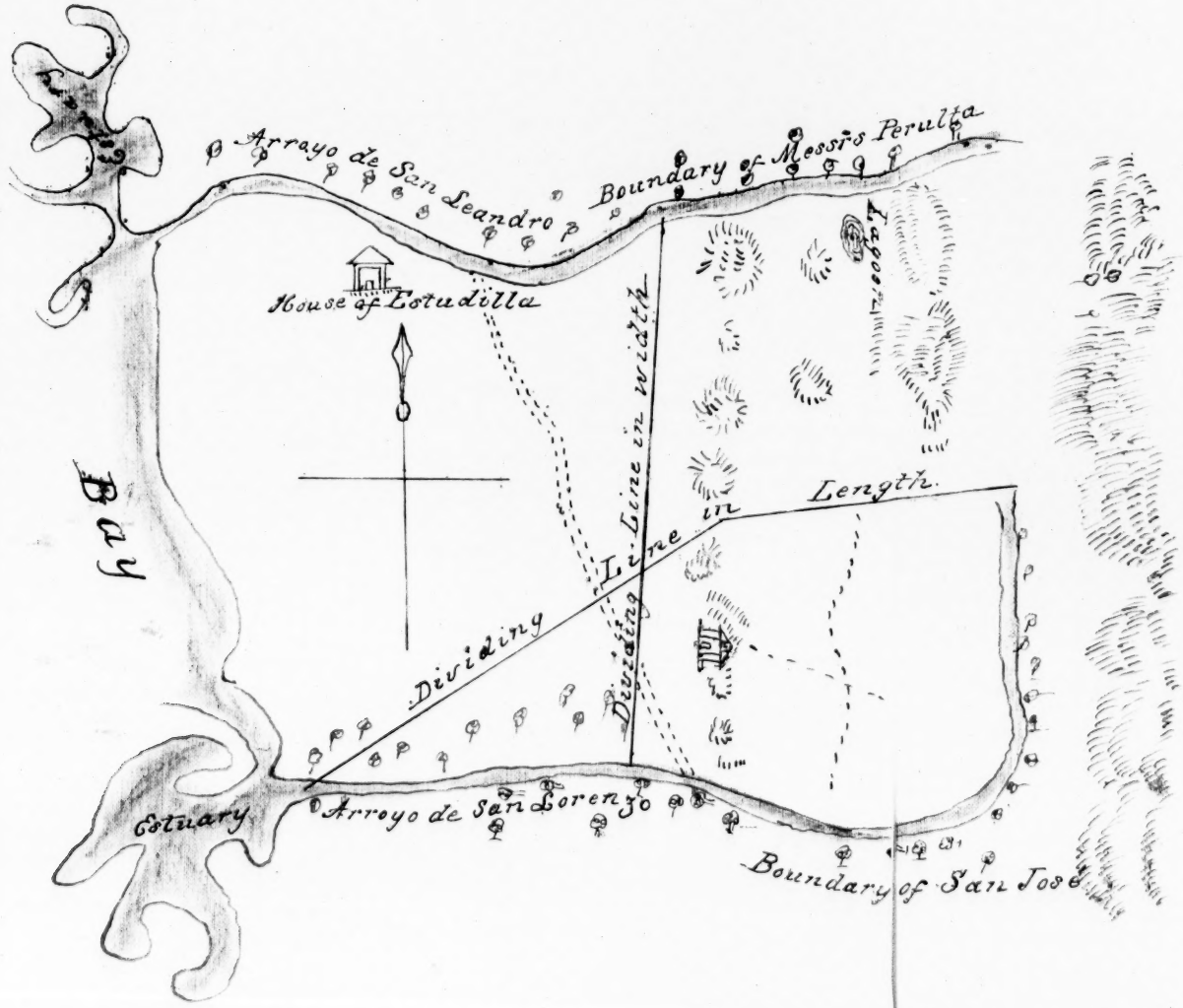
58

No 150 page 38

59

SAN LEANDRO CREEK
SAN LORENZO CREEK
Range of Mountains
FRANCISCO
MAP of a SURVEY
of Lands situated between San Leandro & San Lorenzo Creeks
Made by Nicholas Gray U.S. Deputy Surveyor
Sept 87
Scale 20 chains to an inch
100 acres
Robt Campbell
Frank Miller
85 acres
Wm Hardy
160 acres
Chas Shuttleff
160 acres
Nelson Old
160 acres
Peter Olson
50 acres
Wm C. Smith
160 acres
John B Cook
160 acres
Van Kynigg
23 acres
Hardus
Phillips
Shuttleff
Davis
Roads
Robt Eddings

59



Sketch of the place known by the name of San Leandro made by order of the Prefecture.

The Scale only includes the two plain areas and the Hills that divide them.

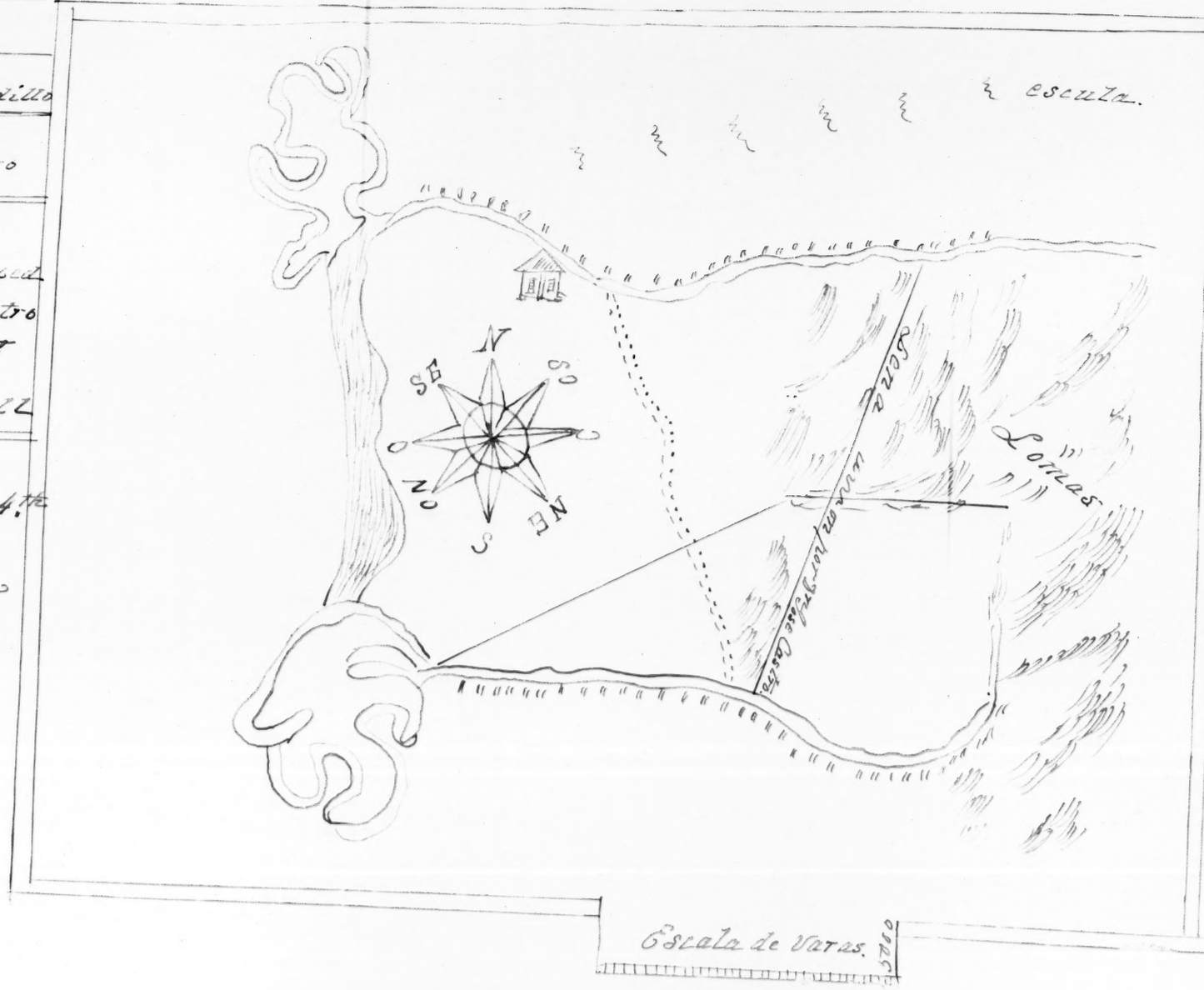
Nº 256

Jose Joaquin Estudillo

San Leandro

Doc H Nº 1 annexed
The Dep of José Castro
taken before Comr
Heland Hall

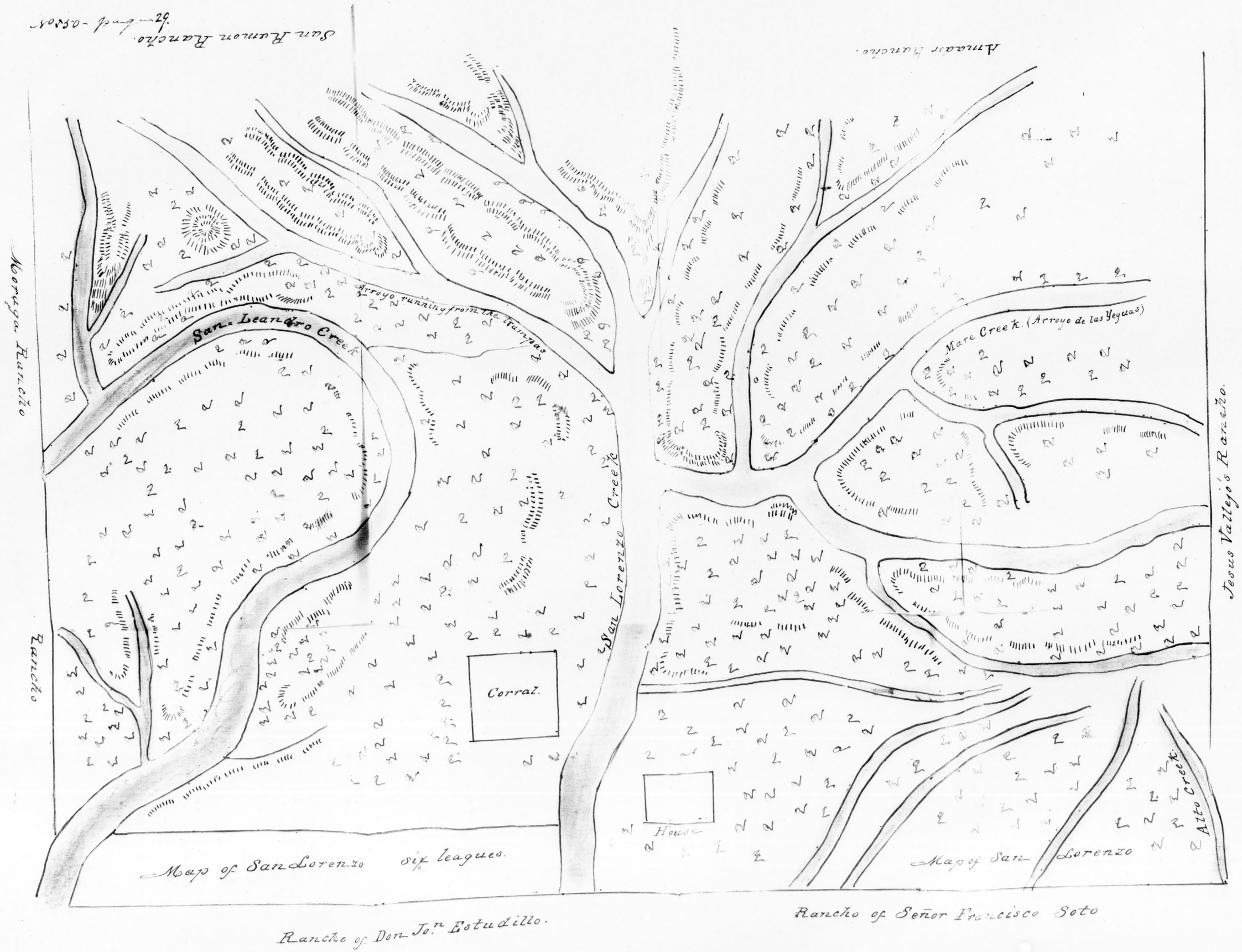
Filed in Office Feb: 4th
1853
(signed) Geo Fisher

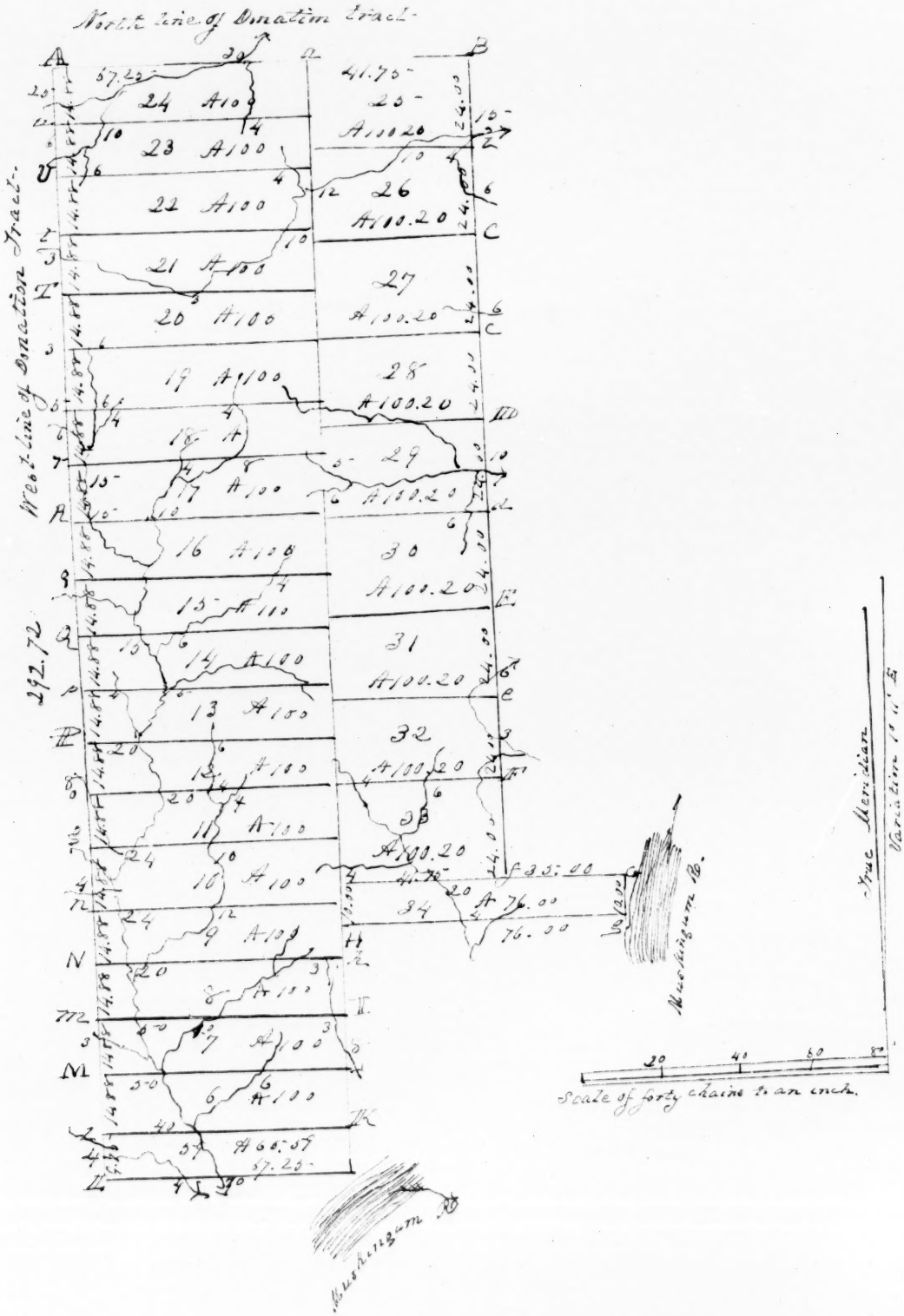


H. H Nº 1

Plana del parage con sade ex nombre de nae Leandro Chantos de ordre de la Drepetura

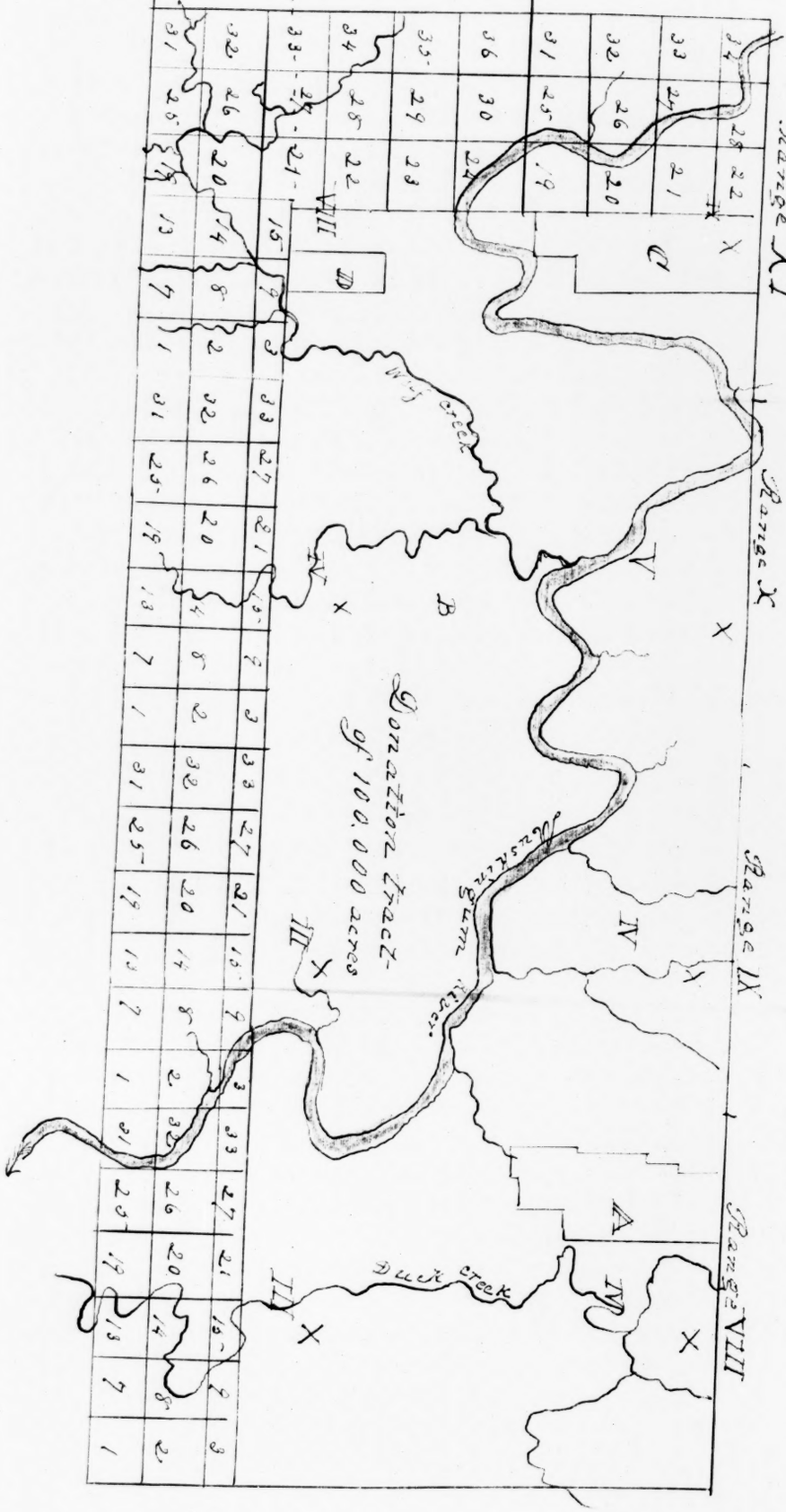
La escula.


San Ramon Rancho.
Amador Rancho.
Moraga Rancho
Rancho
San Leandro Creek
Arroyo running from the Trampas
San Lorenzo Creek
Mare Creek. (Arroyo de las Yeguas)
Jesus Vallejo's Rancho.
Corral.
House
Alto Creek
Map of San Lorenzo six leagues.
Map of San Lorenzo
Rancho of Don Jo.n Estudillo.
Rancho of Señor Francisco Soto


North line of Donation Tract
West line of Donation Tract
292.72
24 A100
23 A100
22 A100
21 A100
20 A100
19 A100
18 A
17 A100
16 A100
15 A100
14 A100
13 A100
12 A100
11 A100
10 A100
9 A100
8 A100
7 A100
6 A100
A66.57
57.20
41.70
25 A100.20
26 A100.20
27 A100.20
28 A100.20
29 A100.20
30 A100.20
31 A100.20
32 A100.20
33 A100.20
34 A76.00
76.00
35.00
Muskingum R.
True Meridian
Variation 10° E
20 40 60 80
Scale of forty chains to an inch.

A. 1851. L. 17.

Plat of part of the Marietta dist: showing 100,000 tracts to be
A & B referred to in the foregoing letter.



No. 21.

(Cm)

North Line of the Donation tract.

West line of the Donation tract.

No 24 100 acres	67.25	41.75	No 25. Acres 100.20
No 23 100. A.			No 26 A. 100.20
No 22 100. A.			
No 21. 100. A. sold			No 27. A 100.20 sold
No 20. 100. A. sold			
No 19 100. A. sold.			No 28 A. 100.20
No 18. 100. A.			No 29 A. 100.20
No 17. 100. A.			
No 16. 100. A.			No 30 A. 100.20
No 15. 100. A.			
No 14 100. A. sold			No 31 A. 100.20
No 13 100 A. sold			No 32 A. 100.20
No 12 100 A. sold			
No 11 100 A. sold.			No 33. A. 100.20
No 10. 100. A. school		41.75	
No 9. 100 A. school.			No 34 76 acres. school
No 8 100 A. school			
No 7. 100 A. school			
No 6 100 A. school			
No 5. 65.5 acres. school.	67.25	41.75	

292.72

Washington Rd.

Washington Rd.